UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of: **Purac America, Inc. d/b/a Corbion** **5150 North Royal Atlanta Drive** **Tucker, Georgia 30084** EPA ID No.: **GAR000076398** Respondent.	Docket No. **RCRA-04-2024-4004(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 the 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. The Respondent is Purac America, Inc. d/b/a Corbion (Corbion), an Illinois corporation, with its principal office at 8250 Flint Street, Lenexa, Kansas 66214. This proceeding pertains to the Respondent's facility located at 5150 North Royal Atlanta Drive, Tucker, Georgia 30084 (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 the 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)(2) of RCRA, 42 U.S.C. § 6928(a)(2). This authority is exercised by the EPA in the manner set forth in the Memorandum of Agreement between the EPA and the State.

9. As the State's authorized hazardous waste program operates in lieu of the federal RCRA program, the citations for the violations of those authorized provisions alleged herein will be to the authorized State program; however, for ease of reference, the federal citations will follow in brackets.

10. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), Complainant has given notice of this action to the State before issuance of this CAFO.

11. Section 12-8-64(1)(A) of the GHWMA [Section 3002(a) of RCRA, 42 U.S.C. § 6922(a)], requires the promulgation of standards applicable to generators of hazardous waste. The implementing regulations for these standards are found at Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. Part 262].

12. Section 12-8-64(1)(A) of the GHWMA [Section 3003(a) of RCRA, 42 U.S.C. § 6923(a)], requires the promulgation of standards applicable to transporters of hazardous waste. The implementing regulations for these standards are found at Ga. Comp. R. and Regs. 391-3-11-.09 [40 C.F.R. Part 263].

13. Section 12-8-66 of the GHWMA [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)].

14. Pursuant to Ga. Comp. R. & 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.

15. 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)].

16. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. §§ 261.3(a)(2)(i) and 261.20], solid wastes that exhibit any of the characteristics identified in Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. §§ 261.21-24] are characteristic hazardous waste and are provided with the EPA Hazardous Waste Numbers D001 through D043.

17. 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.

18. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. §§ 261.20 and 261.23], a solid waste that exhibits the characteristic of reactivity is a hazardous waste and is identified with the EPA Hazardous Waste Number D003.

19. 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 chloroform is identified with the EPA Hazardous Waste Number D022**.**

20. 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].

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

    b. Listed hazardous wastes include the U-Listed wastes identified in Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.33(f)].

21. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.31], the following spent halogenated solvents: Tetrachloroethylene, methylene chloride, trichloroethylene, 1,1,1-trichloroethane, chlorobenzene, 1,1,2-trichloro-1,2,2-trifluoroethane, ortho-dichlorobenzene, trichlorofluoromethane, and 1,1,2-trichloroethane; all spent solvent mixtures/blends

containing, before use, a total of ten percent or more (by volume) of one or more of the above halogenated solvents or those listed in F001, F004, or F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures are solid wastes that are listed hazardous wastes from non-specific sources and identified with the EPA Hazardous Waste Number F002.

22. 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 solid wastes that are listed hazardous wastes from non-specific sources and identified with the EPA Hazardous Waste Number F003.

23. 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 solid wastes that are listed hazardous wastes from non-specific sources and identified with the EPA Hazardous Waste Number F005.

24. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.33(a) and (f)], any commercial chemical products, manufacturing chemical intermediates, or off-specification chemical products having the generic name acetone are identified with the EPA Hazardous Waste Number U002 if and when it is discarded or intended to be discarded.

25. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.02 [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.

26. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.02 [40 C.F.R. § 260.10], a Large Quantity Generator (LQG) is a generator who generates greater than or equal to 1,000 kilograms (2200 pounds (lbs)) of non-acute hazardous waste in a calendar month.

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

28. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.02 [40 C.F.R. § 260.10], a “person” includes, among other entities, an individual, trust, firm, joint stock company, or corporation (including a government corporation).

29. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.02 [40 C.F.R. § 260.10], an "owner" is "the person who owns a facility or part of a facility" and an "operator" is "the person responsible for the overall operation of a facility."

30. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.02 [40 C.F.R. § 260.10], a "container" is defined "as any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled."

31. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.02 [40 C.F.R. § 260.10], "discharge" or "hazardous waste discharge" is defined as "the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, or dumping of hazardous waste into or on any land or water."

32. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.02 [40 C.F.R. § 260.10], "disposal" is defined as "the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters."

33. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.02 [40 C.F.R. § 260.10], "storage" means the containment or holding of hazardous waste, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such hazardous waste.

34. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.02 [40 C.F.R. § 260.10], a "tank system" is defined as a hazardous waste storage or treatment tank and its associated ancillary equipment and containment system.

35. Pursuant to Section 12-8-66 of the GHWMA [Section 3005 of RCRA, 42 U.S.C. § 6925], owners and operators of treatment, storage and disposal facilities shall obtain a permit for the treatment, storage, and disposal of hazardous waste before first treating, storing, or disposing of hazardous waste.

36. 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.

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 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 Section 12-8-66 of the GHWMA [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 generator is required to keep containers of hazardous waste 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.

39. 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 is required to mark or label its containers with an indication of the hazards of the contents.

40. 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 Section 12-8-66 of the GHWMA [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").

41. 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.

42. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(2)], which incorporates the RCRA Hazardous Waste Tank Standards found in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. Part 265, Subpart J], and the Organic Air Emission Standards for managing hazardous waste found in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. Part 265, Subparts AA, BB, and CC], and is a condition of the LQG Permit Exemption, a generator accumulating hazardous waste in tank systems is required to comply with the applicable requirements of Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. Part 265, Subparts J, AA, BB, and CC], which includes standards for managing hazardous waste in tanks, tank systems, and standards for managing volatile organic hazardous waste in tanks, containers, and equipment.

43. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(5)(ii)], which is a condition of the LQG Permit Exemption, a generator must mark or label its tanks with the words "Hazardous Waste"; mark or label its tanks with an indication of the hazards of the contents; use inventory logs, monitoring equipment or other records to demonstrate that hazardous waste has been emptied within 90 days of first entering the tank; and keep inventory logs or records with the above information on site and readily available for inspection.

44. 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. § 262.251], and is a condition of the LQG Permit Exemption, a generator is required to maintain and operate its facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of

hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.

45. 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. § 262.261(c)-(f)], and is a condition of the LQG Permit Exemption, a generator must have a contingency plan for the facility that: describes arrangements agreed to with the local police department, fire department, other emergency response teams, emergency response contractors, equipment suppliers, local hospitals or, if applicable, the Local Emergency Planning Committee, pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.256]; lists names and emergency telephone numbers of all persons qualified to act as emergency coordinator (see Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.264]) and be kept up to date; includes a list of all emergency equipment at the facility where this equipment is required and must be kept up to date; and includes an evacuation plan for generator personnel where there is a possibility that evacuation could be necessary.

46. 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 copy of the contingency plan and all revisions to the plan must be maintained at the LQG and a LQG that first becomes subject to these provisions after May 30, 2017 or a LQG that is otherwise amending its contingency plan must at that time submit a quick reference guide of the contingency plan to the local emergency responders identified at paragraph (a) of 40 C.F.R. § 262.262 or, as appropriate, the Local Emergency Planning Committee.

47. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(7)(i)(A) and (ii)-(iv)], which is a condition of the LQG Permit Exemption: (i) facility personnel must successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the regulations; (ii) facility personnel must complete personnel training within six months of being hired or of being assigned to a new position at the facility; (iii) facility personnel must take part in an annual review of the initial training required by this section; and (iv) the generator must maintain training records that include: the job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job; a written job description for each position; 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 records documenting that the training required has been given to and completed by facility personnel.

48. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.16 [40 C.F.R. § 268.40], a facility may not dispose hazardous waste that is restricted from land disposal unless the waste meets the Universal Treatment Standards (UTS).

49. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.20(a)(1)], a generator who transports, or offers for transport a hazardous waste for offsite treatment, storage, or disposal, must properly prepare and complete a hazardous waste manifest.

50. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.40(a)], a generator must keep a copy of each hazardous waste manifest signed in accordance with Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.23(a)] for three years or until the generator receives a signed copy from the designated facility which received the waste. This signed copy must be retained as a record for at least three years from the date the waste was accepted by the initial transporter.

51. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.41(a), a LQG who ships any hazardous waste off-site to a treatment, storage or disposal facility within the United States must accurately complete and submit EPA Form 8700–13 A/B to the Director of the Georgia Environmental Protection Division (GAEPD) by March 1 of the following even-numbered year and must cover generator activities during the previous year.

52. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.42(a)(1)-(2)], an LQG who does not receive a copy of the hazardous waste manifest with the handwritten signature of the owner or operator of the designated facility ("return-to-generator" copy) within 35 days of the date the waste was accepted by the initial transporter must contact the transporter and/or the owner or operator of the designated facility to determine the status of the hazardous waste; and must submit an Exception Report to the Director of GAEPD if he has not received a copy of the hazardous waste manifest with the handwritten signature of the owner or operator of the designated facility within 45 days of the date the waste was accepted by the initial transporter.

53. Pursuant Ga. Comp. R. and Regs. 391-3-11-.18 [40 C.F.R. § 273.9], a small quantity handler of universal waste (SQHUW) means 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 Ga. Comp. R. and Regs. 391-3-11-.18 [40 C.F.R. § 273.13(a) and (d)], a SQHUW must manage universal waste batteries and lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment.

55. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.18 [40 C.F.R. § 273.14(a)], a SQHUW must label or mark each Universal Waste battery or container in which the batteries are contained clearly with one of the following phrases: "Universal Waste - Battery(ies)," or "Waste Battery(ies)," or "Used Battery(ies)."

56. 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 or package of lamps clearly with one of the following phrases: "Universal Waste-Lamp(s)," or "Waste Lamp(s)," or "Used Lamps."

57. 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 to 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.

58. Pursuant to Section 12-8-65.1(a) of the GHWMA, hazardous waste minimization plans are required to be submitted to GAEPD biennially.

IV. FINDINGS OF FACTS

59. The Respondent manufactures resins used in the medical and pharmaceutical industries at its Facility. These resins are primarily polyester and polylactic acid resins.

60. The Respondent generates hazardous waste solvent and spent filters from its process, and several laboratory waste streams. Hazardous wastes generated at the Facility include wastes identified with the EPA Hazardous Waste Numbers D001, D003, D022, F002, F003, and U002. The Respondent also generates and manages acetone waste with an average volatile organic concentration of more than 10% in its tank systems.

61. On January 19, 2022, the Respondent notified GAEPD as an LQG.

62. On March 14, 2023, the EPA conducted a compliance evaluation inspection (CEI) at the Respondent's Facility. The EPA's findings of the CEI were documented in a Report emailed to the Respondent on May 10, 2023.

63. At the time of the CEI, the inspectors observed that the Respondent had failed to make an accurate hazardous waste determination for the acetone contaminated wastewater accumulating in the secondary containment area. During the CEI, the inspectors observed a pump leaking acetone into the secondary containment area and brought the need for an accurate hazardous waste determination to the attention of Facility personnel. On March 24, 2023, the Respondent shipped off the wastewater from the secondary containment area as nonhazardous waste. The Respondent did not provide a hazardous waste determination for the wastewater as generated at the time of the CEI.

64. At the time of the CEI, the inspectors observed an improperly sealed 55-gallon container of hazardous waste spent filters labeled as "Hazardous Waste," but without identifying the hazards of the container's contents, in the SAA in the Production Room.

65. At the time of the CEI, the inspectors requested the records for the previous three years of weekly inspections of the hazardous waste CAA. The Respondent was only able to demonstrate it had conducted weekly inspections during November 2022 and December 2022.

66. At the time of the CEI, the inspectors observed that the Respondent was not applying the requirements of the RCRA Hazardous Waste Tank Standards found in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. Part 265, Subpart J], or the Organic Air Emission Standards for managing hazardous waste found in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. Part 265, Subparts BB and CC] to its hazardous waste tank system, which includes but is not limited to the Solvent Waste Tank, and all piping and ancillary equipment associated with the hazardous waste tanks.

67. At the time of the CEI, the inspectors observed that the Solvent Waste Tank was not labeled with the words "Hazardous Waste," with an indication of the hazards of the contents, or with the date upon which accumulation began.

68. At the time of the CEI, the inspectors observed a visible and active leak flowing from the pump in between the tanks, which left a trail of liquid acetone in the secondary containment area. Inspectors noted a white solid residue from the continuous or previous leaks. The valve to the pump was not closed at the time of the inspection. The Respondent communicated to inspectors that it would be closed as soon as confirmation was received that no adverse effects would result once the valve was shut, and absorbent pads were placed in the area to contain any residual product. On the date of the CEI, the Respondent notified inspectors it was already aware of the intermittent leak and had already requested replacement parts from the vendor on March 8, 2023, six days prior to the inspection.

69. At the time of the CEI, the inspectors reviewed the Facility-specific contingency plan and found that the contingency plan did not: (i) describe arrangements with the local police department, fire department, other emergency response teams, emergency response contractors, equipment suppliers, local hospitals, or the Local Emergency Planning Committee; (ii) clearly designate the primary and secondary emergency coordinators; (iii) include the location and a physical description of each item on a list of emergency equipment, or a brief outline of its capabilities; and (iv) list evacuation routes and alternate evacuation routes.

70. At the time of the CEI, the inspectors observed that the contingency plan did not include a quick reference guide. On June 6, 2023, the Respondent submitted an updated contingency plan addressing the deficiencies noted here and in Paragraph 69.

71. At the time of the CEI, the inspectors observed that an employee who was handling hazardous waste had not completed the hazardous waste training. Following the CEI on March 17, 2023, the Respondent provided the EPA with evidence of that employee's completion of the hazardous waste training. The completion date of the training was February 26, 2020.

72. At the time of the CEI, the Respondent explained that liquid accumulated in the secondary containment at the hazardous waste tank system was periodically released/discharged to the creek. Inspectors observed the Respondent's discharge logs from December 2022, and identified at least three occasions on which the Respondent discharged wastewater containing concentrations of acetone above the UTS (0.28 mg/L or 280 ug/L) from the Facility, as noted in the table below.

Date of Sample Collection	Acetone Concentration	Date of Discharge
December 2, 2022	23,000 ug/L	December 14, 2022
January 25, 2023	7,900 ug/L	January 27, 2023
March 1, 2023	5,300 ug/L	March 7, 2023

73. At the time of the CEI, the inspectors observed that the most recent hazardous waste manifest for the outbound shipment of hazardous waste acetone (U002) to Clean Harbors, a treatment, storage, or disposal facility (EPA ID No. OHD980587364) did not include Hazardous Waste Numbers. Upon further investigation, the inspectors found that approximately 26 hazardous waste manifests did not include Hazardous Waste Numbers. The Respondent submitted the outstanding Hazardous Waste Numbers to the EPA on June 6, 2023.

74. At the time of the CEI, the inspectors reviewed the hazardous waste manifests initiated by the Respondent for the previous three years. The following observations were made:

    a. the Respondent initiated at least 110 shipments on hazardous waste manifests during the three-year period; and

    b. the Respondent maintained only 18 manifests at the Facility (12 return-to-generator copies from the designated facility and six generator's initial copies). The Respondent provided the outstanding documents to the EPA on June 6, 2023, for all other shipments of hazardous waste for the relevant three-year period.

75. At the time of the CEI, the inspectors found that the most recent Biennial Report only included the bulk waste acetone being sent to Clean Harbors (EPA ID No. OHD980587364) and did not include hazardous waste shipped to MKC Enterprises (EPA ID No. GAD000616367).

76. At the time of the CEI, the inspectors observed that the Respondent had not followed up with the transporter or designated facility on the status of the shipments nor provided to the Director of GAEPD, Exception Reports for at least 98 shipments of hazardous waste for which it had not received the return-to-generator copies of the hazardous waste manifests.

77. At the time of the CEI, the inspectors observed open, unlabeled, and undated containers of four-foot spent universal waste lamps and miscellaneous universal waste batteries. Following the CEI, the Respondent notified the EPA that the universal waste observed during the inspection was properly disposed of as universal waste by the Respondent. The Respondent further notified the EPA that it acquired containers designated for the accumulation of universal waste lamps, batteries, and ballasts; each container was labeled as universal waste with an indication of the contents with an accumulation start date; weekly inspection logs were updated to include verification that the universal waste has not accumulated for more than 12 months; and each container was closed, and the Respondent's personnel were trained to keep universal waste containers closed when not adding waste to them.

78. At the time of the CEI, the Facility could not demonstrate the length of time that the universal waste had been stored onsite. As stated in Paragraph 77, following the CEI, the Respondent notified the EPA that universal waste containers were labeled with accumulation start dates and weekly inspection logs were updated to include verification that universal waste has not accumulated for more than 12 months.

79. At the time of the CEI, the inspectors determined that the hazardous waste minimization plan was submitted late and was inaccurate because it did not include all the waste streams generated at the Facility.

80. Following the CEI, the Respondent notified the EPA that it had updated its Standard Operating Procedure for managing stormwater and implemented a new Standard Operating Procedure for conducting weekly inspections. The Respondent further notified the EPA that it corrected inaccuracies in the hazardous waste minimization plan following the CEI, and that replacement parts for the pump in between the tanks were installed on April 10, 2023, and the surface of the containment area was cleaned.

V. ALLEGED VIOLATIONS

81. The Respondent is a "person" as defined in Ga. Comp. R. and Regs. 391-3-11-.02 [40 C.F.R. § 260.10].

82. The Respondent is the "owner" and "operator" of a "facility" located at 5150 North Royal Atlanta Drive, Tucker, Georgia 30084, as those terms are defined in Ga. Comp. R. and Regs. 391-3-11-.02) [40 C.F.R. § 260.10].

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

84. The Respondent is a "generator" of "hazardous waste" as those terms are defined in Ga. Comp. R. and Regs. 391-3-11-.02 [40 C.F.R. § 260.10] and Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.3].

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

86. The Respondent failed to make an accurate hazardous waste determination on the acetone mixed with storm/wastewater accumulating in the secondary containment area. The EPA therefore alleges that the Respondent violated Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.11] by failing to make a hazardous waste determination on solid waste generated at its Facility.

87. The Respondent failed to properly seal the container of hazardous waste spent filters in the SAA in the Production Room. The EPA therefore alleges that the Respondent violated Section 12-8-66 of the GHWMA [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 containers of hazardous waste closed in accordance with 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.

88. The Respondent failed to label the container of hazardous waste spent filters in the SAA in the Production Room with an indication of the hazards of its contents. The EPA therefore alleges that the Respondent violated Section 12-8-66 of the GHWMA [Section 3005 of RCRA, 42 U.S.C.

§ 6925] by storing hazardous waste without a permit or interim status, because the Respondent failed to label its containers of hazardous waste with an indication of the hazards of its contents in accordance with 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.

89. The Respondent failed to conduct weekly inspections of the hazardous waste CAA. The EPA therefore alleges that the Respondent violated Section 12-8-66 of the GHWMA [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 inspection requirement in 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.

90. The Respondent failed to meet the tank system and organic air emission requirements required to store hazardous waste with an average volatile organic concentration of more than 10% in tank systems. The EPA therefore alleges that the Respondent violated Section 12-8-66 of the GHWMA [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 Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(2)], which incorporates the RCRA Hazardous Waste Tank Standards and Organic Air Emission Standards found in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. Part 265, Subparts J, BB, and CC], and is a condition of the LQG Permit Exemption.

91. The Respondent failed to label the Solvent Waste Tank with the words “Hazardous Waste,” with an indication of the hazards of the contents, or with the date upon which accumulation began. The EPA therefore alleges that the Respondent violated Section 12-8-66 of the GHWMA [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 marking and labeling requirements in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(5)(ii)], which is a condition of the LQG Permit Exemption.

92. The Respondent failed to maintain and operate its Facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to the air, soil, or surface water which could threaten human health or the environment by not repairing the pump and failing to containerize the released acetone in the secondary containment. The EPA therefore alleges that the Respondent violated Section 12-8-66 of the GHWMA [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 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 complying with the maintenance and operations requirements in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.251].

93. The Respondent failed to develop a contingency plan that: included a description of arrangements with the local police department, fire department, other emergency response teams, emergency response contractors, equipment suppliers, local hospitals, or the Local Emergency Planning Committee; clearly designated the primary and secondary emergency coordinators; provided the location and a physical description of each item on a list of

emergency equipment, with a brief outline of its capabilities; and listed evacuation routes and alternate evacuation routes. The EPA therefore alleges that the Respondent violated Section 12-8-66 of the GHWMA [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 Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(6)], by not complying with the contingency plan requirements in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.261(c)-(f)].

94. The Respondent failed to develop a quick reference guide and submit it to local emergency responders. The EPA therefore alleges that the Respondent violated Section 12-8-66 of the GHWMA [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 Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(6)], by not complying with the quick reference guide requirement in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.262(b)].

95. The Respondent failed to provide an employee a program of classroom instruction or on-the-job training that teaches employees to perform their duties in a way that ensures the Facility's compliance with the regulations. The EPA therefore alleges that the Respondent violated Section 12-8-66 of the GHWMA [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 training requirements in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(7)], which is a condition of the LQG Permit Exemption.

96. The Respondent failed to comply with the hazardous waste land disposal restrictions by discharging hazardous waste acetone to the creek, with concentrations exceeding the Universal Treatment Standard of 0.28 mg/L or 280 ug/L. The EPA therefore alleges that the Respondent violated Ga. Comp. R. and Regs. 391-3-11-.16 [40 C.F.R. § 268.40] by disposing hazardous waste without complying with the applicable UTS restrictions.

97. On three recorded occasions, the Respondent discharged hazardous waste into the creek. The Respondent does not have a permit to dispose of hazardous waste. The EPA therefore alleges that the Respondent violated Section 12-8-66 of the GHWMA [Section 3005 of RCRA, 42 U.S.C. § 6925] by disposing of hazardous waste without a permit or interim status.

98. The Respondent failed to include the Hazardous Waste Numbers on its outgoing hazardous waste manifests as required by the instructions. The EPA therefore alleges that the Respondent violated Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.20(a)(1)] by failing to properly prepare a hazardous waste manifest for hazardous waste offered for transport.

99. The Respondent failed to maintain copies of its signed hazardous waste manifests for the last three years. The EPA therefore alleges that the Respondent violated Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.40(a)] by failing to keep a copy of each signed manifest for three years or until he receives a signed copy from the designated facility.

100. The Respondent failed to accurately report all bulk waste acetone on Form 8700–13 A/B. The EPA therefore alleges that the Respondent violated Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.41(a)] by not accurately reporting all hazardous waste generated at the Facility in its Biennial Report.

101. The Respondent failed to contact the transporter and/or the owner or operator of the designated facility to determine the status of the hazardous waste when it had not received the signed return-to-generator copies of hazardous waste manifests within 35 days and submit Exception Reports. The EPA therefore alleges that the Respondent violated Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.42(a)] by failing to follow up to determine the status of hazardous waste for which it had not received a return-to-generator copy of the hazardous waste manifests within 35 days and failing to submit an Exception Report within 45 days.

102. The Respondent failed to close containers of universal waste batteries and lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment. The EPA therefore alleges that the Respondent violated Ga. Comp. R. and Regs. 391-3-11-.18 [40 C.F.R. § 273.13(a) and (d)] by failing to manage universal waste batteries and lamps in a way that prevents release of any universal waste or component of a universal waste to the environment.

103. The Respondent failed to label or mark universal waste batteries or containers with one of the following phrases: “Universal Waste – Battery(ies),” or “Waste Battery(ies),” or “Used Battery(ies).” The EPA therefore alleges that the Respondent violated Ga. Comp. R. and Regs. 391-3-11-.18 [40 C.F.R. § 273.14(a)] by failing to label containers of universal waste batteries as required.

104. The Respondent failed to label or mark the containers of universal waste lamps with one of the following phrases: “Universal Waste-Lamp(s),” or “Waste Lamp(s),” or “Used Lamps.” The EPA therefore alleges that the Respondent violated Ga. Comp. R. and Regs. 391-3-11-.18 [40 C.F.R. § 273.14(e)] by failing to label containers of universal waste lamps as required.

105. The Respondent failed to demonstrate the length of time that universal waste batteries and lamps had been accumulating from the date that they became waste. The EPA therefore alleges that the 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 universal waste had accumulated at the Facility.

106. The Respondent failed to provide a timely and accurate hazardous waste minimization plan. The EPA therefore alleges that the Respondent violated Section 12-8-65.1(a) of the GHWMA by failing to comply with the waste minimization requirements.

VI. STIPULATIONS

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

108. 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.

109. 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.

110. 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 authorized State program found in the requirements of the GHWMA and the GHWMR, and the Act and its implementing regulations, and that all violations alleged herein, which are neither admitted nor denied, have been corrected.

111. 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

112. The Respondent consents to the payment of a civil penalty, which was calculated in accordance with the Act, in the amount of **THREE HUNDRED THIRTY-TWO THOUSAND DOLLARS $332,000.00**, which is to be paid within 30 days of the Effective Date of this CAFO.

113. 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 the 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, Missouri 63197-9000

b. If the 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, Missouri 63045

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

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, New York 10045
Beneficiary: Environmental Protection Agency

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

US Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking

Physical location of US Treasury facility:
5700 Rivertech Court
Riverdale, Maryland 20737
Remittance Express (REX): 1-866-234-5681

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

Regional Hearing Clerk
U.S. EPA Region 4
R4_Regional_Hearing_Clerk@epa.gov

and

Brooke York,
Chemical Safety and Land Enforcement Branch
Environmental Compliance and Assurance Division
U.S. EPA Region 4
york.brooke@epa.gov

115. "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-04-2024-4004(b)**."

116. 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 or, in the case of a stipulated penalty, from the date that EPA first mails notice to the Respondent that a stipulated penalty is due. If the civil penalty or stipulated penalty is paid within 30 days of the Effective Date of this CAFO or the date that the EPA first mails notice to the Respondent that a stipulated penalty is due, interest is waived. However, if the civil penalty or stipulated 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 more than 90 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/or

c. 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(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.

117. 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.

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

119. 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 the EPA's Cincinnati Finance Center Region 4 contact, Jessica Henderson (Henderson.Jessica@epa.gov), on or before the date that the Respondent's initial penalty payment is due, pursuant to Paragraph 112 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.

d. Failure to comply with providing Form W-9 or a 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. SUPPLEMENTAL ENVIRONMENTAL PROJECT

120. In response to the alleged violations of RCRA, GHWMA, and GHWMR and in settlement of this matter, although not required by RCRA or any other federal, state, or local law, the Respondent agrees to implement a supplemental environmental project (SEP), as described below and in Appendix A.[1]

121. The Respondent shall design, install and complete a roof construction over the hazardous waste tank system and secondary containment area, consisting of: a metal structure extending over the existing hazardous waste tank system and containment area that includes lights and a fire suppression system. The SEP is more specifically described in Appendix A and incorporated herein by reference.

[1] The document attached as Appendix A describes the Show Cause Letter date as March 14, 2023. While the Show Cause Letter included a CEI Report which was dated March 14, 2023, the actual Show Cause Letter is dated and was sent on May 10, 2023.

122. The Respondent shall spend no less than **TWO HUNDRED THIRTY THOUSAND DOLLARS $230,000.00** on implementing the SEP. The Respondent shall include documentation of the expenditures made in connection with the SEP as part of the SEP Completion Report.

123. The Respondent shall satisfactorily complete the SEP within 18 months of the Effective Date of this CAFO.

124. The SEP is consistent with applicable EPA policy and guidelines, specifically the EPA's 2015 *Update to the 1998 Supplemental Environmental Projects Policy* (March 10, 2015) (SEP Policy). The SEP advances at least one of the objectives of RCRA by preventing most rainwater from entering the hazardous waste tank system, thereby reducing the amount of waste generated at the Facility. The SEP is not inconsistent with any provision of RCRA. The SEP relates to the alleged violations, and is designed to reduce:

a. The likelihood that similar releases of hazardous waste will occur in the future by preventing precipitation from entering the hazardous waste tank system;

b. The adverse impact to public health and/or the environment to which the alleged violations contribute, specifically by preventing hazardous waste from mixing with other environmental media, such as stormwater; and/or

c. The overall risk to public health and/or the environment potentially affected by the alleged violations by preventing any release of hazardous waste, or hazardous waste constituents from mixing with stormwater.

125. The Respondent certifies the truth and accuracy of each of the following:

a. That all cost information provided to the EPA in connection with the EPA's approval of the SEP is complete and accurate and that the Respondent in good faith estimates that the cost to implement the SEP, exclusive of costs excluded by the SEP Policy is $230,000.00;

b. That, as of the date of executing this CAFO, the Respondent is not required to perform or develop the SEP by any federal, state, or local law or regulation and is not required to perform or develop the SEP by agreement, grant, or as injunctive relief awarded in any other action in any forum;

c. That the SEP is not a project that the Respondent was planning or intending to construct, perform, or implement other than in settlement of the claims resolved in this CAFO;

d. That the Respondent has not received and will not have received credit for the SEP in any other enforcement action;

e. That the Respondent will not receive reimbursement for any portion of the SEP from another person or entity;

f. That for federal income tax purposes, the Respondent agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP; and

g. That the Respondent is not a party to any open federal financial assistance transaction that is funding or could fund the same activity as the SEP described in Appendix A.

126. Any public statement, oral or written, in print, film, or other media, made by an officer of the Respondent in their official capacity making reference to the SEP under this CAFO from the date of its execution of this CAFO shall include the following language: "This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental Protection Agency for alleged violations of the federal laws."

127. SEP Reports

a. The Respondent shall submit a SEP Completion Report to the EPA by 60 days following the completion of the SEP. The SEP Completion Report shall contain the following information, with supporting documentation:

i. A detailed description of the SEP as implemented;
ii. A description of any operating problems encountered and the solutions thereto;
iii. Itemized costs;
iv. Certification that the SEP has been fully implemented pursuant to the provisions of this CAFO ; and
v. A brief description of the environmental and public health benefits resulting from implementation of the SEP (with a quantification of the benefits and pollutant reductions, if feasible), which description shall be acceptable if it resembles the description in Appendix A in form and substance.

b. The Respondent agrees that failure to submit the SEP Completion Report shall be deemed a violation of this CAFO and the Respondent shall become liable for stipulated penalties pursuant to Paragraph 129 below.

c. The Respondent shall submit all notices and reports required by this CAFO to Brooke York at york.brooke@epa.gov, and Joshua Lee at lee.joshua@epa.gov.

d. In itemizing its costs in the SEP Completion Report, the Respondent shall clearly identify and provide acceptable documentation for all eligible SEP costs. Where the SEP Completion Report includes costs not eligible for SEP credit, those costs must be clearly identified as such. For purposes of this Paragraph, "acceptable documentation" includes invoices, purchase orders, or other documentation that specifically identifies and itemizes the individual costs of the goods and/or services for which payment is being made. Canceled drafts do not constitute acceptable documentation unless such drafts specifically identify and itemize the individual costs of the goods and/or services for which payment is being made.

128. EPA acceptance of SEP Completion Report

a. After receipt of the SEP Completion Report described in Paragraph 127 above, the EPA will, in writing to the Respondent, either:

i. Identify any deficiencies in the SEP Completion Report itself along with a grant of an additional 30 days for the Respondent to correct any deficiencies; or
ii. Indicate that the EPA concludes that the project has been completed satisfactorily; or
iii. Determine that the project has not been completed satisfactorily and seek stipulated penalties in accordance with Paragraph 129 herein.

b. If the EPA elects to exercise option (i) above, i.e., if the SEP Completion Report is determined to be deficient but the EPA has not yet made a final determination about the adequacy of SEP completion itself, the Respondent may object in writing to the notification of deficiency given pursuant to this paragraph within 10 days of receipt of such notification. The EPA and the Respondent shall have an additional 30 days from the receipt by the EPA of the notification of objection to reach agreement on changes necessary to the SEP Completion Report. If agreement cannot be reached on any such issue within this 30-day period, the EPA shall provide a written statement of its decision on the satisfactory completion of the SEP to the Respondent, which decision shall be final and binding upon the Respondent.

129. Stipulated Penalties

a. Except as provided in subparagraphs (b) and (c) below, if the Respondent fails to satisfactorily complete the requirements regarding the SEP specified in Appendix A by the deadline in Paragraph 123, if assessed by the EPA in writing, the Respondent agrees to pay, in addition to the civil penalty in Paragraph 112, the following per day per violation stipulated penalty for each day the Respondent is late meeting the applicable SEP requirement:

i. $250 per day for days 1-30;
ii. $300 per day for days 31 – 60; and
iii. $500 per day after 60 days.

b. If the Respondent fails to timely submit any SEP Reports, as described in Section VIII, Paragraphs 127-128, in accordance with the timelines set forth in this CAFO, if assessed by the EPA in writing, the Respondent agrees to pay the following per day stipulated penalty for each day after the report was due until the Respondent submits the report in its entirety:

i. $100 per day for days 1-30;
ii. $150 per day for days 31 – 60; and
iii. $300 per day after 60 days.

c. If the Respondent does not satisfactorily complete the SEP, including spending the minimum amount on the SEP set forth in Paragraph 122 above, the Respondent shall pay a stipulated penalty to the United States in the amount of **TWO HUNDRED FIFTY THREE THOUSAND DOLLARS $253,000.00**. "Satisfactory completion" of the SEP is defined as the Respondent spending no less than $230,000 to design and install a metal structure, roof, over the hazardous waste tank system and containment area and includes lights and a fire suppression system within 18 months of the Effective Date of this CAFO. The determinations of whether the SEP has been satisfactorily completed shall be in the sole discretion of the EPA.

d. The EPA retains the right to waive or reduce a stipulated penalty at its sole discretion, including but not limited to the event that the Respondent satisfactorily completes all elements of the SEP but has expended less than the agreed-upon amount set forth in Paragraph 122.

e. The Respondent shall pay stipulated penalties not more than 30 days after receipt of written demand by the EPA for such penalties. The method of payment shall be in accordance with the provisions of Section VII (Terms of Payment) above. Interest and late charges shall be paid as stated in Paragraph 116.

IX. DISPUTE RESOLUTION

130. If the Respondent objects to any decision or directive of the EPA relating to the subject matter of Section VIII (Supplemental Environmental Project) in this CAFO, the Respondent shall notify the following persons in writing of its objections, and the basis for those objections, within 15 days of receipt of the EPA's decision or directive:

Brooke York
Environmental Engineer
york.brooke@epa.gov
(404) 562-8025

Joshua Lee
Assistant Regional Counsel
lee.joshua@epa.gov
(404) 562-9255

131. The EPA or its designee, and the Respondent shall then have an additional 15 days from receipt by the EPA of the Respondent's written objections to attempt to resolve the dispute. If an agreement is reached between the EPA and the Respondent, the agreement shall be reduced to writing and signed by the Parties and, upon the approval of the Regional Judicial Officer, incorporated by reference into this CAFO.

132. If no agreement is reached between the EPA and the Respondent within that time period, the dispute shall be submitted to the Director of the Enforcement and Compliance Assurance Division (Division Director) or their designee. The Division Director and the Respondent shall then have a second 15-day period to resolve the dispute. If an agreement is reached between the Division Director and the Respondent, the resolution shall be reduced to writing and signed by the Parties and, upon the approval of the Regional Judicial Officer, incorporated by reference into this CAFO. If the Division Director and the Respondent are unable to reach agreement within this second 15-day period, the Division Director shall provide a written statement of the EPA's decision to the Respondent, which, upon signature by Respondent and approval by the Regional Judicial Officer, shall be binding upon the Respondent and incorporated by reference into this CAFO.

X. EFFECT OF CAFO

133. 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.

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

135. 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).

136. 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.

137. 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.

138. 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, except that the Regional Judicial Officer need not approve written agreements between the Parties modifying the SEP schedule of deadlines in Section VIII (Supplemental Environmental Project) of this CAFO. The Director of the Enforcement and Compliance Assurance Division shall have the authority to extend the SEP deadlines for good cause.

139. 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.

140. 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.

141. 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.

142. 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.

143. 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.

144. 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.

145. 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.

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

147. 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.

148. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date and, where the last day of a time period would fall on a Saturday, Sunday, or Federal holiday, the period of time shall run until the close of business of the next working day.

XI. EFFECTIVE DATE

149. 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, as indicated on the Certificate of Service for the Final Order.

[Remainder of Page Intentionally Left Blank

Complainant and the Respondent will Each Sign on Separate Pages.]

The foregoing Consent Agreement *In the Matter of* ***Purac America, Inc. d/b/a Corbion***, Docket No. **RCRA-04-2024-4004(b)**, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:

Signature

30-Aug-2024

Date

Printed Name: Menno Lammers

Title: VP Biomaterials

Address: 5150 N Royal Atl Drive 30084 Tucker

The foregoing Consent Agreement *In the Matter of* ***Purac America Inc. d/b/a Corbion,*** Docket No. **RCRA-04-2024-4004(b),** is Hereby Stipulated, Agreed, and Approved for Entry.

FOR COMPLAINANT:

KERIEMA NEWMAN

Digitally signed by KERIEMA NEWMAN
Date: 2024.09.13 15:01:38 -04'00'

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: **Purac America Inc. d/b/a Corbion** **5150 North Royal Atlanta Drive** **Tucker, Georgia 30084** EPA ID No.: **GAR000076398** Respondent.	Docket No. **RCRA-04-2024-4004(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 the 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: 2024.09.13 16:29:19 -04'00'

_____

Regional Judicial Officer

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order, *In the Matter of* ***Purac America Inc. d/b/a Corbion***, Docket No. **RCRA-04-2024-4004(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:

Respondent:

Colin McMullin
Vice President and General Counsel – Functional Ingredient Solutions
Corbion
colin.mcmullin@corbion.com
(913) 890-5500

Dinah Elzinga
General Counsel – Health and Nutrition
Corbion
dinah.elzinga@corbion.com
+31 18 3695848

Adam Troutwine
Shareholder
Polsinelli PC
atroutwine@polsinelli.com
(816) 572-4759

EPA:

Brooke York
Environmental Engineer
york.brooke@epa.gov
(404) 562-8025

Joshua Lee
Assistant Regional Counsel
lee.joshua@epa.gov
(404) 562-9255

SHANNON RICHARDSON

Digitally signed by SHANNON RICHARDSON
Date: 2024.09.16 06:18:51 -04'00'

Regional Hearing Clerk
R4_Regional_Hearing_Clerk@epa.gov

Attachment A

Proposed Supplemental Environmental Project

Site Name. Corbion, Tucker, GA Facility ("Tucker Facility")

Project Name. Roof construction over acetone tank and secondary containment area.

Project Type. Environmental protection; pollution prevention and waste reduction.

Estimated Cost. $350,000

Estimated Timeframe. 6 – 12 Months

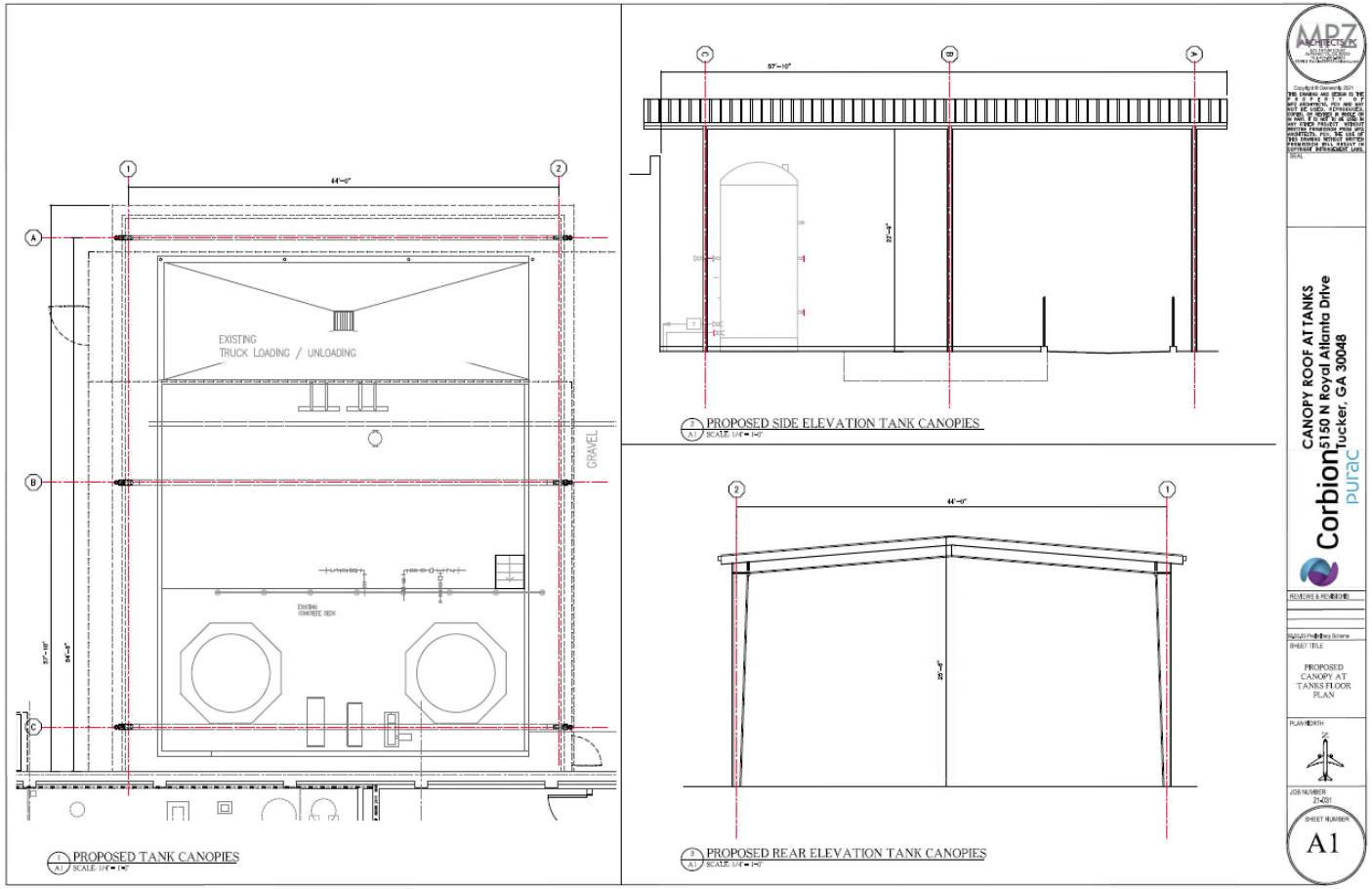
Project Details. Corbion stores acetone in tanks at its Tucker Facility. The tanks are located in an area known as the "tank farm," which also houses a secondary containment trough to catch any accidental leak or spill from the tanks. Because this area is located outside of the building, rain and snow that lands on the tank farm area currently drains into the secondary containment trough. Corbion proposes to install an approximately 57'-10" by 44'-0" roof structure over its tank farm and secondary containment area at the Tucker facility. *See* attached roof design. This work will be performed by a contractor selected through a competitive bidding process and overseen by Corbion's retained architect, MPZ Architects, PC within the next 6-12 months. *See* attached proposal. The estimated cost to design and construct the roof totals $350,000 ($38,000 architect/engineering cost + $272,017.68 construction cost + approx. 13% contingency).

Expected Environmental Benefit. The primary goal of this project is pollution prevention and reduction. The project will prevent rainwater or snow melt from coming into contact with the acetone storage tanks and the tank containment area. This would eliminate a potential pollution pathway and waste stream, thereby reducing the risk to human health or the environment. As noted above, runoff from rain or snow melt currently drains into the containment area, requiring Corbion to pump and dispose of the water as a hazardous waste. Because the roof would prevent this runoff water from contacting the acetone tanks or secondary containment area, this project will eliminate this potential waste stream.

Nexus. This project directly relates to the violations alleged by EPA in its March 14, 2023, show cause letter. One of the issues EPA cited was the Tucker Facility's management of water in its secondary containment trough and the potential for that water to have been impacted by residual acetone in the tank farm area and trough. The project directly addresses this concern and eliminates the risk that the alleged violation will reoccur in the future. Further, the project has the added environmental benefit of reducing the amount of waste generated by the Tucker Facility.

Other Information. The project is not an activity or result that is already required by law or is set to become a future requirement. Neither EPA nor Georgia Environmental Protection Division (GAEPD) could order Corbion to undertake this project. The project is not funded by government contracts, loans or grants. The project does not create a significant market or economic advantage for Corbion. The project does not result in the EPA, GAEPD, or any other federal or state agency controlling funds or implementing the project. No permits are required to complete the project from federal or state authorities. A construction permit may be required by local governmental authorities, which the Tucker facility will obtain prior to construction if required.

Draft Design of Roof Over 2ND Containment Area



Roof Estimates

- Architect/engineer: $38,000
- Construction estimate: $272,000

Corbion

MPZ ARCHITECTS, PC

August 30, 2023

Mr. Thomas Silva
Manager of Reliability and Maintenance
Corbion
5150 N Royal Atlanta Drive
Tucker, GA 30084

RE: Rear Exterior Canopy – Covering Water Drainage System at Chemical Tanks

These are budgetary numbers as provided by a local General Contractor based on the anticipated scope of the work.

CORBION BUDGET NUMBERS

Metal FRAME	SQ. FT.	COST /FT	BUDGET
Width 44'x58', Eave Height 23'	2,552	$95.00	$242,440.00
Contingency 10%			$24,244.00
Permitting			$5,333.68
TOTAL BUDGET			$272,017.68

Building Profile to be Single Slope, Roof Pitch
1/2:12 Bay Spacing 20'
Roof Type: 26 Gauge PBR
Wall Type: 26 Gauge
Color: Charcoal Grey
60 Eave Condition Gutter and Downspouts

FOOTINGS
Poured Reinforced Concrete Footings

ELECTRICAL
Provide and Install 8 New LED high bay fixtures

SPRINKLER CHANGES

625 Tatum Court● Alpharetta, Georgia 30022●Tel: 404.663.8863●E-Mail: Marnie@MPZArchitects.com