

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

<b>In the Matter of:</b>	:
	:
Silgan White Cap Corporation	: U.S. EPA Docket No. RCRA-03-2021-0089
350 Jaycee Drive	:
Hazelton, PA 18201	: Proceeding under Section 3008(a) of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. Section 6928(a)
Respondent.	:
	:
Silgan White Cap Corporation	:
350 Jaycee Drive	:
Hazelton, PA 18201	:
Facility.	:

**CONSENT AGREEMENT**

**PRELIMINARY STATEMENT**

1. This Consent Agreement is entered into by the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III (“Complainant”) and Silgan White Cap Corporation (“Respondent”) (collectively the “Parties”), pursuant to Sections 3008(a) and (g) of the Solid Waste Disposal Act, commonly known as the Resource Conservation and Recovery Act of 1976, as amended by *inter alia*, the Hazardous and Solid Waste Amendments of 1984 (collectively referred to hereinafter as “RCRA”), 42 U.S.C. §§ 6928(a) and (g), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R. Part 22. 42 U.S.C. Section 6928(a)(2), RCRA Section 3008(a)(1), 42 U.S.C. Section 6928(a)(1), authorizes the Administrator of the U.S. Environmental Protection Agency to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated this authority to the Regional Administrator who, in turn, has delegated it to the Complainant. This Consent Agreement and the attached Final Order resolve Complainant’s civil penalty claims against Respondent under RCRA (or the “Act”) for the violations alleged herein.

2. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

### **JURISDICTION**

3. The U.S. Environmental Protection Agency has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.
4. EPA has given the Commonwealth of Pennsylvania, through the Pennsylvania Department of Environmental Protection (“PADEP”), prior notice of the initiation of this action in accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).
5. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(4).

### **GENERAL PROVISIONS**

6. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order.
7. Except as provided in the Paragraph above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.
8. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of the Consent Agreement and Final Order.
9. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and Final Order and or the enforcement of this Consent Agreement and Final Order.
10. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.
11. Respondent shall bear its own costs and attorney’s fees in connection with this proceeding.

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

12. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.

13. The Commonwealth of Pennsylvania has received federal authorization to administer a Hazardous Waste Management Program (the “Pennsylvania Hazardous Waste Management Program”) (“PaHWMR”) in lieu of the federal hazardous waste management program under RCRA Subtitle C, 42 U.S.C. §§6921 – 6939(g). Effective January 30, 1986, EPA authorized the PaHWMR pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), and 40 C.F.R. Part 271, Subpart A. Thereby the authorized regulations of the PaHWMR became requirements of RCRA Subtitle C and are enforceable by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a). *See* 51 *Fed.Reg.* 1791 (January 15, 1986), 65 *Fed. Reg.* 57734 (September 26, 2000), 69 *Fed. Reg.* 2674 (January 20, 2004) and 74 *Fed. Reg.* 19453 (April 29, 2009).
14. As part of the last PaHWMR revisions authorized by EPA, EPA authorized PaHWMR regulations that incorporate by reference, with certain exceptions, specific provisions of Title 40 of Code of Federal Regulations that were in effect as of October 12, 2005, including, among other things, incorporation of 40 C.F.R. § 262.34 (Accumulation Time, which lists the requirements for the generator permit exemption). The Code of Federal Regulation citations used herein, when referring to the Federal regulations incorporated by the PaHWMR, are to the 2005 Federal regulations. Thus, 40 C.F.R. § 262.34 (2005) is the currently federally enforceable RCRA regulation applicable in Pennsylvania. (On November 28, 2016, EPA re-codified the generator permit exemption, effective on May 30, 2017. The federal requirements previously found in 40 C.F.R. § 262.34 are now re-codified at 40 C.F.R. §§ 262.15 - 262.17.). Respondent is, and was at the time of the violations alleged herein, a Delaware corporation registered to do business in the Commonwealth of Pennsylvania.
15. Respondent is, and at the time of the violations alleged herein, a “person” as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903, 25 Pa. Code § 260a.10.
16. Respondent is, and at all times relevant to this Consent Agreement was, the “owner” and “operator” of a “facility,” as the terms “facility”, “owner” and “operator” are defined in 25 Pa. Code § 260a.1.
17. The facility referred to in Paragraph 16, above, including all of its associated equipment and structures (hereinafter the “Facility”), is a facility that manufactures metal vacuum seal packaging closures for consumer goods packaging at 350 Jaycee Drive, Hazelton, Pennsylvania 18201.
18. Pennsylvania assigned the Respondent RCRA Generator ID No. PAD042622787.
19. Respondent was at all times relevant to this Consent Agreement and Final Order, a “generator” of, and has engaged in the “storage” in “containers” at the Facility of materials described below that are “solid wastes” and “hazardous wastes”, as those terms are defined in 40 C.F.R. § 260.10, as incorporated by reference by 25 Pa. Code § 260a.1, with the exception of the term “storage”, which is defined in 25 Pa. Code § 260a.10.
20. On June 12, 2019, a representative of EPA conducted an EPA Compliance Evaluation Inspection (EPA CEI) at Respondent’s Facility.

21. Respondent, generates, among other hazardous wastes, solvent waste (Xylene and Cyclohexanone), rags and felt bars saturated with solvent, spent aerosol cans and universal waste (lamps and batteries). The solvent waste generated at Facility is a hazardous waste (EPA Hazardous Waste No. D001) within the meaning of 25 Pa. Code § 261a.1, which incorporates by reference 40 C.F.R. § 261.22, because it exhibits the characteristic of ignitability.
22. Respondent generates more than 1000 kilograms of hazardous waste in a calendar month, and as such is a “large quantity generator.”
23. On June 12, 2019, the material described in Paragraph 21, above, was in “storage” in containers and tanks at the Facility.

**Count I**  
**Storing Hazardous Waste without Interim Status or a Permit**

24. The preceding paragraphs are incorporated by reference.
25. 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), and Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), provide, in pertinent part, that a person may not own or operate a facility for the treatment, storage or disposal of hazardous waste unless such person has first obtained a permit for such facility or has qualified for interim status for the facility.
26. Respondent does not have a hazardous waste treatment or storage permit or interim status pursuant to 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), for the treatment or storage of hazardous waste at the Facility.
27. 25 Pa. Code § 262a.10 which incorporates by reference 40 C.F.R. § 262.34(a) (pertaining to “Accumulation Time”), provides in applicable and relevant part:

Except as provided in paragraphs (d), (e), and (f) of this section, a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that:

- (1) The waste is placed:
  - (i) In containers and the generator complies with the applicable requirements of subparts I, AA, BB, and CC of 40 CFR part 265; and/or...

\* \* \*

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

- (3) While being accumulated on-site, each container and tank is labeled or marked clearly with the words, “Hazardous Waste”; and
  - (4) The generator complies with the requirements for owners or operators in subparts C and D in 40 CFR part 265, with § 265.16, and with all applicable requirements under 40 CFR part 268.
28. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(c)(1) (pertaining to “Satellite Accumulation”), provides in applicable and relevant part:

A generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste... in containers at or near any point of generation where wastes initially accumulate which is under the control of the operator of the process generating the waste, without a permit or interim status...provided [the generator]:

  - (i) Complies with [among others] § 265.173(a) of this chapter [pertaining to keeping containers closed except when adding or removing waste]; and
  - (ii) Marks his containers either with the words “Hazardous Waste” or with other words that identify the contents of the containers.
29. From at least July 2015 until June 12, 2019, Respondent failed to comply with Subpart BB of 40 C.F.R Part 265 insofar as there was a pump in light service and valves in light liquid service in equipment at the Facility containing hazardous waste with organic concentrations of at least 10% by weight subject to monitoring under Subpart BB, but monitoring by Respondent was not conducted utilizing Reference “Method 21” as required by 40 C.F.R. § 265.1063(b). Specifically, the Subpart BB monitoring instrument used by Respondent was not calibrated prior to use for monitoring equipment, as required by Method 21, under 40 C.F.R. § 265.1063(b). Respondent conducted calibration of the monitoring instrument every six months, according to Respondent’s SOP, during this time period for the five (5) pieces of equipment subject to BB monitoring requirements. Method 21 requires calibrating the BB monitoring instrument prior to use. EPA concludes that Respondent’s failure to calibrate the monitoring equipment properly invalidated the monthly monitoring results of the certain pieces of equipment that were being monitored by Respondent that were subject to BB monitoring requirements.
30. At the time of the EPA CEI, Respondent failed to mark eight (8) containers of hazardous waste rags on the shipping dock awaiting pick up by the Facility’s laundry services with the words “hazardous waste”, “excluded solvent-contaminated wipes”, or the start accumulation date.
31. At the time of the EPA CEI, Respondent failed to keep closed two of the hazardous waste satellite accumulation containers when not adding or removing waste and did not mark the containers with a label identifying the contents in the Print and Coat Line areas 1 and 2.
32. At the time of the EPA CEI, the job descriptions for positions at the Facility provided by Respondent did not describe or mention any duties for hazardous waste

management.

33. On June 12, 2019, Respondent failed to qualify for the generator accumulation permit exemption of 25 Pa. Code § 262a.10 which incorporates by reference 40 C.F.R. § 262.34 with exceptions not relevant herein, by failing to satisfy the conditions for such exemptions referred to in Paragraphs 27 and 28 above.
34. On June 12, 2019, Respondent was required by 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), to obtain a permit for the hazardous waste storage activities described in this count and failed to obtain such permit. In failing to comply with 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

### **Count II**

#### **Failure to Comply with Method 21 Regarding Air Monitoring Instrument Calibration Requirements**

35. The preceding paragraphs are incorporated by reference.
36. Pursuant to 25 Pa. Code § 264a, which incorporates by reference 40 C.F.R. § 264.1063(b), the owner or operator who is subject to the monitoring requirements of Subpart BB of 40 C.F.R. Part 264 shall comply with Reference Method 21 in 40 CFR part 60 insofar as instrument response factors for each of the individual Volatile Organic Compound (“VOC”) to be measured shall be less than 10 unless otherwise specified in the applicable regulation. Section 8.1.1.2 of Method 21 provides, in part, when no instrument is available that meets this specification when calibrated with the reference VOC specified in the applicable regulation, the available instrument may be calibrated with one of the VOC to be measured, or any other VOC, so long as the instrument then has a response factor of less than 10 for each of the individual VOC to be measured. Section 8.1.2 of Method 21 which states, in part, that the calibration precision test must be completed prior to placing the analyzer into service and at subsequent 3-month intervals or at the next use, whichever is later, respectively. See, Sections 8.1.2 and 8.1.1.2 of Method 21.

37. At the time of the EPA CEI, because Respondent has equipment in light liquid service (containing hazardous waste of at least 10% organic concentration by weight) which subjects it to RCRA Subpart BB requirements, EPA inspectors requested that Respondent provide records demonstrating that calibration precision testing was performed for its photoionization detector (“PID”) instrument used for leak detection consistent with Method 21. Respondent provided calibration precision test records for its PID that showed it was calibrated every six months and not every 3 months or prior to each use. Based on the information gathered during the Inspection, Respondent failed to perform quarterly calibration precision testing for its PID used in its Air Monitoring in accordance with the Method 21 requirements as referenced in 40 C.F.R. § 264.1063(b), and therefore from June 12, 2016 through June 12, 2019, failed to comply with the Method 21 calibration requirements as referenced in 40 C.F.R. § 264.1063(b) as required by 25 Pa. Code § 265a.

### **Count III**

#### **Failure to Monitor Pump in Light Liquid Service Monthly**

38. The preceding paragraphs are incorporated by reference.
39. The regulations at 25 Pa. Code § 264a, which incorporates by reference 40 C.F.R. § 264.1052(a)(1), state that each pump in light liquid service shall be monitored monthly to detect leaks by the methods specified in Method 21 requirements as referenced in 40 C.F.R. § 264.1063(b).
40. From June 12, 2016 through June 12, 2019, Respondent failed to properly calibrate its Section 264.1057 PID pursuant to Method 21 requirements as referenced in 40 C.F.R. § 264.1063(b), therefore, from June 12, 2016 through June 12, 2019, Respondent failed to properly monitor its pump in light liquid service at the Facility monthly as required by 25 Pa. Code § 264a [40 C.F.R. § 264.1052(a)(1)], which states each pump in light liquid service shall be monitored monthly to detect leaks by the methods specified in Method 21 requirements as referenced in 40 C.F.R. § 264.1063(b).

### **Count IV**

#### **Failure to Monitor Valve in Light Liquid Service Monthly**

41. The preceding paragraphs are incorporated by reference.
42. The regulations at 25 Pa. Code § 264a, which incorporate by reference 40 C.F.R. § 264.1057(a), state that each valve in gas/vapor or light liquid service shall be monitored monthly to detect leaks as specified in Method 21 requirements as referenced in 40 C.F.R. § 264.1063(b). The regulations at 25 Pa. Code § 264a, also incorporate by reference 40 C.F.R. § 264.1057(c), which state that (1) any valve for which a leak is not detected for two successive months may be monitored the first month of every succeeding quarter, beginning with the next quarter, until a leak is detected; (2) if a leak is detected, the valve shall be monitored monthly until a leak is not detected for two successive months. The regulations at 25 Pa. Code § 264a, also incorporate by reference 40 C.F.R. § 264.1062(a), which provides that: an owner or operator subject to the requirements of § 264.1057 may elect for all valves within a hazardous waste

management unit to comply with one of the alternative work practices specified in paragraphs (b) (2) and (3) of this section.

43. From June 12, 2016 through June 12, 2019 Respondent failed to properly calibrate its Section 264.1057 PID pursuant to Method 21 requirements as referenced in 40 C.F.R. § 265.1063(b), therefore, from June 12, 2016 through June 12, 2019 Respondent failed to properly monitor its valves in light liquid service at the Facility monthly as required by and in 25 Pa. Code § 264a [40 C.F.R. § 264.1057(a)], which states each valve in light liquid service shall be monitored monthly to detect leaks by the methods specified in Method 21 requirements as referenced in 40 C.F.R. § 265.1063(b).

**Count VI**  
**Failure to Describe Hazardous Waste Duties in Job Descriptions**

44. The preceding paragraphs are incorporated by reference.
45. 25 Pa. Code § 264a, which incorporates by reference 40 CFR § 264.16(d)(2), requires the owner of a hazardous waste facility to maintain at the facility a written job description for each position at the facility related to hazardous waste management.
46. At the time of the EPA CEI, the written job descriptions of the positions at the Facility provided by Respondent on the day of the Inspection did not describe or mention any duties for hazardous waste management as required by 25 Pa. Code § 264a [40 CFR § 264.16(d)(2)].

**Count VII**  
**Failure to Properly Manage Universal Waste (Lamps)**

47. The preceding paragraphs are incorporated by reference.
48. 25 Pa. Code § 266b.1, which incorporates by reference 40 CFR § 273.13(d)(1), requires that a small quantity handler of universal waste lamps must manage such lamps in a way that prevents releases and, among other things, contain any lamp in containers and packages that must remain closed.
49. At the time of the EPA CEI, Respondent was storing universal waste lamps in containers that were not closed as required by 25 Pa. Code § 266b.1 [40 CFR § 273.13(d)(1)].

**CIVIL PENALTY**

50. In settlement of EPA's claims for civil penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of **THIRTY-EIGHT THOUSAND NINE HUNDRED SEVENTY DOLLARS (\$38,970.00)**, which Respondent shall be liable to pay in accordance with the terms set forth below.



51. The civil penalty is based upon EPA's consideration of a number of factors, including the penalty criteria ("statutory factors") set forth in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), which include the seriousness of the violation and any good faith efforts to comply with the applicable requirements. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's October, 1990 RCRA Civil Penalty Policy, as revised in June, 2003 and May 2020 which reflects the statutory penalty factors set forth at Sections 3008(a)(3) and (g) of RCRA, 42 U.S.C. §§ 6982(a)(3) and (g), the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA's civil penalty policies to account for inflation.
52. Payment of the civil penalty amount, and any associated interest, administrative fees, and late payment penalties owed, shall be made by either cashier's check, certified check or electronic wire transfer, in the following manner:
- a. All payments by Respondent shall include reference to Respondent's name and address, and the Docket Number of this action, *i.e.*, RCRA-03-2021-0089;
  - b. All checks shall be made payable to the "United States Treasury";
  - c. All payments made by check and sent by regular mail shall be addressed and mailed to:  

U.S. Environmental Protection Agency  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000
  - d. For additional information concerning other acceptable methods of payment of the civil penalty amount see:  

<https://www.epa.gov/financial/makepayment>
  - e. A copy of Respondent's check or other documentation of payment of the penalty using the method selected by Respondent for payment shall be sent simultaneously via email to:

Jeffrey S. Nast  
Senior Assistant Regional Counsel  
U.S. EPA, Region III (3RC40)  
[nast.jeffrey@epa.gov](mailto:nast.jeffrey@epa.gov)

and

U.S. EPA Region III Regional Hearing Clerk

[R3\\_Hearing\\_Clerk@epa.gov](mailto:R3_Hearing_Clerk@epa.gov).

53. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment of the penalty as specified herein shall result in the assessment of late payment charges including interest, penalties and/or administrative costs of handling delinquent debts.
54. Payment of the civil penalty is due and payable immediately upon receipt by Respondent of a true and correct copy of the fully executed and filed Consent Agreement and Final Order. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed Consent Agreement and Final Order, with a date stamp indicating the date on which the Consent Agreement and Final Order was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed EPA by Respondent in accordance with 40 C.F.R. § 13.9(a).
55. INTEREST: In accordance with 40 C.F.R § 13.11(a)(1), interest on the civil penalty assessed in this Consent Agreement and Final Order will begin to accrue on the date that a copy of the fully executed and filed Consent Agreement and Final Order is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalties that is paid within sixty (60) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R § 13.11(a).
56. ADMINISTRATIVE COSTS: The costs of the EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives – Case Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
57. LATE PAYMENT PENALTY: A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
58. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.

**GENERAL SETTLEMENT CONDITIONS**

59. By signing this Consent Agreement, Respondent acknowledges that this Consent Agreement and Final Order will be available to the public and represents that, to the best of Respondent's knowledge and belief, this Consent Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondent.
60. Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this Consent Agreement and Final Order, including information about respondent's ability to pay a penalty, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

**CERTIFICATION OF COMPLIANCE**

61. Respondent certifies to EPA, upon personal investigation and to the best of its knowledge and belief, that it is in compliance with regard to the violations alleged in this Consent Agreement.

**OTHER APPLICABLE LAWS**

62. Nothing in this Consent Agreement and Final Order shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This Consent Agreement and Final Order does not constitute a waiver, suspension or modification of the requirements of the RCRA, or any regulations promulgated thereunder.

### **RESERVATION OF RIGHTS**

63. This Consent Agreement and Final Order resolves only EPA's claims for civil penalties for the specific violations alleged against Respondent in this Consent Agreement and Final Order. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. This settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice, 40 C.F.R. § 22.18(c). EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this Consent Agreement and Final Order after its effective date.

### **EXECUTION /PARTIES BOUND**

64. This Consent Agreement and Final Order shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and Final Order.

### **EFFECTIVE DATE**

65. The effective date of this Consent Agreement and Final Order is the date on which the Final Order, signed by the Regional Administrator of EPA, Region III, or his/her designee, the Regional Judicial Officer, is filed along with the Consent Agreement with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

### **ENTIRE AGREEMENT**

66. This Consent Agreement and Final Order constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed in this Consent Agreement and Final Order.

In re Silgan White Cap Corporation  
RCRA-03-2021-0089

For Respondent: Silgan White Cap Corporation

Date: 9/3/21

By: Gerald O'Hara

Gerald O'Hara  
Plant Manager  
Silgan White Cap Corporation

For the Complainant:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement & Compliance Assurance Division of the United States Environmental Protection Agency, Region III, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

Date: \_\_\_\_\_

By: \_\_\_\_\_

Karen Melvin  
Director, Enforcement & Compliance  
Assurance Division  
U.S. EPA – Region III  
Complainant

Attorney for Complainant:

Date: 9/9/2021

By: Jeffrey S. Nast

Jeffrey S. Nast  
Sr. Assistant Regional Counsel  
U.S. EPA – Region III



In re Silgan White Cap Corporation  
RCRA-03-2021-0089

injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Consent Agreement and does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of RCRA and the regulations promulgated thereunder.

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

\_\_\_\_\_  
Date:

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