

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Kevin P. Pechulis 2/13/13
Name of Case Attorney Date

in the ORC (RAA) at 918-1113
Office & Mail Code Phone number

Case Docket Number CAA-01-2013-0012

Site-specific Superfund (SF) Acct. Number _____

This is an original debt This is a modification

Name and address of Person and/or Company/Municipality making the payment:

American Shipyard Co., LLC
1 Washington Street
Newport, RI 02840-1566

Total Dollar Amount of Receivable \$ 31,000 Due Date: 3/15/13

SEP due? Yes _____ No Date Due _____

Installment Method (if applicable)

INSTALLMENTS OF:

- 1st \$ _____ on _____
- 2nd \$ _____ on _____
- 3rd \$ _____ on _____
- 4th \$ _____ on _____
- 5th \$ _____ on _____

For RHC Tracking Purposes:

Copy of Check Received by RHC _____ Notice Sent to Finance _____

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

IFMS Accounts Receivable Control Number _____

If you have any questions call: _____
in the Financial Management Office Phone Number _____



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I – New England
5 Post Office Square - Suite 100
Boston, Massachusetts 02109-3912

RECEIVED
FEB 13 P 3:27
EPA ORC
OFFICE OF
REGIONAL HEARING CLERK

BY HAND

February 13, 2013

Wanda I. Santiago, Regional Hearing Clerk
EPA Region 1 – New England
5 Post Office Square, Suite 100 (ORA18-1)
Boston, MA 02109-3912

Re: In Re: American Shipyard Co., LLC, EPA Docket No. CAA-01-2013-0012;
Approved Consent Agreement and Final Order

Dear Ms. Santiago:

Please find enclosed for filing the original and one copy of a Consent Agreement and Final Order (“CAFO”) resolving the above-referenced enforcement case. Also enclosed is the original and one copy of a certificate of service documenting that, on this date, a copy of the CAFO and this cover letter were mailed to the Respondent’s counsel.

Thank you for your assistance in this matter.

Sincerely,

Kevin P. Pechulis, Enforcement Counsel
Regulatory Legal Office
EPA Region 1

Enclosures

cc: LeAnn Jensen, Acting Regional Judicial Officer (without enclosures)
Robin L. Main, Esq., Hinckley, Allen & Snyder LLP, counsel for Respondent
Thomas McCusker, EPA Region 1 (electronically)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I – NEW ENGLAND

RECEIVED
2013 FEB 13 P 3: 27

_____)
IN THE MATTER OF)
)
American Shipyard Co., LLC)
1 Washington Street)
Newport, Rhode Island 02840-1566)
)
Proceeding under Section)
113 of the Clean Air Act)
_____)

Docket No: CAA-01-2013-0012

EPA ORC
OFFICE OF
REGIONAL HEARING CLERK

**CONSENT AGREEMENT AND
FINAL ORDER**

CONSENT AGREEMENT

The Complainant, United States Environmental Protection Agency, Region I (“EPA”), alleges that American Shipyard Co., LLC d/b/a Newport Shipyard (“Newport Shipyard” or “Respondent”), violated certain provisions of the Rhode Island state implementation plan (“SIP”). EPA may enforce SIP provisions under Section 113 of the Clean Air Act (“CAA” or the “Act”), 42 U.S.C. § 7413.

EPA and Respondent agree to settlement of this matter through this Consent Agreement and Final Order (“CAFO”) without the filing of an administrative complaint, as authorized under 40 C.F.R. § 22.13(b).

EPA and Respondent agree that settlement of this matter is in the public interest and that entry of this CAFO without further litigation is the most appropriate means of resolving this matter.

Therefore, before taking any testimony, upon the pleadings, without adjudication of any issue of fact or law, and upon consent and agreement of the parties, it is hereby

ordered and adjudged as follows:

I. PRELIMINARY STATEMENT

1. This CAFO is entered into by the Director, Office of Environmental Stewardship, EPA and Respondent pursuant to Section 113(d)(2)(B) of the Clean Air Act (“CAA”), 42 U.S.C. § 7413(d)(2)(B), and EPA’s “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits,” 40 C.F.R. Part 22, including, but not limited to, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).

2. The provisions of this CAFO shall apply to and be binding on EPA and on Respondent, including its officers, directors, successors, and assigns.

3. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in this CAFO. Respondent waives any defenses that it might have as to jurisdiction and venue. Respondent consents to the terms of this CAFO.

4. Respondent neither admits nor denies the specific factual and legal allegations below in Section II. For purposes of this CAFO and any action necessary to enforce it, Respondent hereby waives its right to request a judicial or administrative hearing or otherwise to contest the allegations in this CAFO. Respondent waives any right to appeal this CAFO.

5. As provided by Section 113(d)(1)(B) of the Act, 42 U.S.C. § 7413(d)(1)(B), the Debt Collection Improvement Act, 31 U.S.C. § 3701, and EPA’s Civil Monetary Penalty Inflation Adjustment Rules, promulgated thereunder at 40 C.F.R. Part 19, EPA may assess

a civil administrative penalty of up to \$37,500 per day for each violation of the Clean Air Act occurring after January 12, 2009.

II. EPA FINDINGS

6. Section 110(a) of the Clean Air Act (“CAA” or the “Act”), 42 U.S.C. § 7410(a), requires each state to prepare a SIP incorporating regulations designed to attain and maintain healthy air quality. A state must submit its SIP and any SIP revisions to EPA for approval. Once EPA has approved a SIP, it may enforce the SIP’s requirements and prohibitions pursuant to Sections 113(a) and (b) of the CAA, 42 U.S.C. §§ 7413(a) and (b).

7. The State of Rhode Island has adopted a SIP within the meaning of Section 113(a)(1) of the Act, which has been approved by EPA under Section 110 of the Act, 42 U.S.C. § 7410. The Rhode Island SIP includes various federally approved portions of the Rhode Island Air Pollution Control Regulations (“RI APC Regulations”).

8. Respondent, located at 1 Washington Street in Newport, Rhode Island (the “Facility”), supports, refits, repairs (including by the application of surface coatings), services, and stores marine recreational vessels up to 350 feet in length at the Facility.

9. Respondent was formed as a Rhode Island limited liability company in 1998.

10. In September 2010, EPA representatives inspected the Facility (the “Inspection”) and gathered, among other things, information regarding the Facility’s surface coating operations.

11. In April 2011, EPA issued a Reporting Requirement (“RR”) to Respondent in order to obtain further information from the company regarding its business structure and

Facility operations.

12. In July 2011, Respondent submitted a response to EPA's RR.

13. As part of its repair and other operations on marine recreational vessels at the Facility, Respondent applies materials to the metal, fiberglass, and wood substrates (or parts thereof) of marine recreational vessels including paints, solvent thinners, and fairing compounds (collectively referred to herein as "coatings") that contain volatile organic compounds ("VOCs") and hazardous air pollutants ("HAPs").

14. Respondent uses paint sprayers (*e.g.*, "paint spray guns") and other means to apply coatings to the hulls and decks of marine recreational vessels and parts thereof.

15. On August 20, 2007 Respondent purchased two new DeVilbiss paint spray guns, Model #JGA-510-797FX and Model #JGA-510-30EX, for use at its Facility to apply coatings to marine recreational vessels.

16. On March 18, 2011 Respondent purchased a DeVilbiss paint spray gun, Model # COM-PS507B-1800, for use at its Facility to apply coatings to marine recreational vessels.

17. At the time of the Inspection, Respondent used at least two paint spray guns at the Facility, including the two DeVilbiss paint spray guns purchased on August 20, 2007, to apply coatings to marine recreational vessels at the Facility.

18. Since at least August 20, 2007, Respondent has used at least two paint spray guns to apply coatings to marine recreational vessels at the Facility.

19. On March 9, 2012, the Complainant issued a Notice of Violation ("NOV") to Respondent for violations of the Rhode Island State Implementation Plan ("SIP"). The

NOV was issued under the authority of Section 113(a)(1) of the CAA, 42 U.S.C.

§ 7413(a)(1), which requires that whenever EPA finds that any person has violated or is in violation of any requirement or prohibition of an applicable SIP, EPA shall notify the person of such finding.

A. Rhode Island Air Pollution Control Regulation 9

20. Under the SIP at RI APC Regulation 9.2.1, no person may construct, install or modify, or cause the construction, installation, or modification of any stationary source subject to RI APC Regulation 9 without obtaining an air pollution control permit.

21. Under the SIP at RI APC Regulation 9.3.1(g)(1), a minor source permit is required for the construction, installation, or modification of any stationary source or process having the potential to emit one hundred pounds or more per day or ten pounds or more per hour of any air contaminant into the atmosphere through surface coating or spray painting.

22. Under the SIP at RI APC Regulation 9.4.1(b), a major stationary source is a stationary source that emits or has the potential to emit 50 tons per year or more of VOCs, or a stationary source that makes a physical change if the change would constitute a major stationary source by itself.

23. Under the SIP at RI APC Regulation 9.4.2, a major source permit is required for a new major stationary source or a major modification of VOCs in an ozone nonattainment area such as the State of Rhode Island.

24. Based upon the installation of the two paint spray guns at the Facility on August 20, 2007, and the Facility's use of other means, to apply VOC-containing coatings to

marine recreational vessels, the Facility's potential to emit exceeds ten pounds per hour, 100 pounds per day, and 50 tons or more per year of VOCs from its surface coating operations. Accordingly, the Facility constitutes a major stationary source of VOCs.

25. As of August 20, 2007, the Facility did not have an air pollution control permit under RI APC Regulation 9. Accordingly, as of August 20, 2007, Respondent has constructed, installed, or modified the Facility or processes at the Facility without having obtained an air pollution control permit, in violation of RI APC Regulation 9 of the SIP and the CAA.

26. Based upon the installation of the paint spray gun at the Facility on March 18, 2011, and the Facility's use of other means, to apply VOC-containing coatings to marine recreational vessels, the Facility's potential to emit exceeds ten pounds per hour, 100 pounds per day, and 50 tons or more per year of VOCs from its surface coating operations. Accordingly, the Facility constitutes a major source of VOCs.

27. As of March 18, 2011, the Facility did not have an air pollution control permit under RI APC Regulation 9. Accordingly, as of March 18, 2011, Respondent has constructed, installed, or modified the Facility or processes at the Facility without having obtained an air pollution control permit, in violation of RI APC Regulation 9 of the SIP and the CAA.

28. To date, Respondent has not applied for an air pollution control permit under RI APC Regulation 9. Therefore, Respondent continues to operate the Facility without the required air pollution control permit under RI APC Regulation 9.

29. Since August 20, 2007 Respondent has failed to employ, and continues to fail to employ, air pollution control practices at the Facility to achieve either the “lowest achievable emissions rate” (“LAER”) or the “best available control technology” (“BACT”), as required by RI APC Regulation 9. See RI APC Regulations 9.3.3, 9.4.1 and 9.4.2.

B. Rhode Island Air Pollution Control Regulation 29

30. Respondent has the potential to emit 50 tons per year or more of VOCs from its surface coating operations at the Facility. Accordingly, Respondent was required to apply for and obtain either a Title V operating permit pursuant to Section 502(a) of the CAA, 42 U.S.C. § 7661a(a), and 40 C.F.R. Part 70, or an emissions cap under the SIP at RI APC Regulation 29.3.

31. As of August 20, 2008, and continuing through the date of this NOV, Respondent had not applied for or obtained either a Title V operating permit or an emissions cap for the Facility in violation of RI APC Regulation 29.3 of the SIP and the CAA. See CAA Section 503(c), 42 U.S.C. § 7661b(c).

C. Rhode Island Air Pollution Control Regulation 19

32. Under the SIP at RI APC Regulation 19.2.1, surface coating facilities for which actual uncontrolled emissions from miscellaneous metal parts and products (“MMP”) coating (see RI APC Regulation 19.1.1(d)) have been greater than 15 pounds of VOCs in any one day after December 31, 1989 must comply with RI APC Regulation 19 of the SIP.

33. Under the SIP at RI APC Regulation 19.2.3, an owner or operator of a surface

coating facility whose emissions are below the applicability threshold of RI APC Regulation 19.2.1 must comply with the applicable certification, recordkeeping, and reporting requirements of RI APC Regulation 19.5.1.

34. Under the SIP at RI APC Regulation 19.5.1, any owner or operator of a surface coating line or operation that is exempt from the emission limitations in RI APC Regulation 19.3 because the facility's VOC emissions from all operations in any one of the surface coating categories listed in RI APC Regulation 19.1.1 (a)-(i) have not exceeded 15 pounds per day, must comply with applicable certification, recordkeeping, and reporting requirements.

35. According to information obtained by EPA during the September 2010 Inspection and through Respondent's response to EPA's RR, EPA has determined that Respondent has applied surface coatings that contain VOCs to miscellaneous metal parts, and that, at a minimum, Respondent has violated, and continues to violate, the certification and recordkeeping requirements of RI APC Regulation 19.5.1 of the SIP.

III. DEFINITIONS

36. "Effective Date" means the date on which the CAFO is filed with the Regional Hearing Clerk.

IV. TERMS OF SETTLEMENT

A. Penalty

37. In light of the statutory factors of Section 113(e) of the Act, EPA has determined that it is fair and proper to assess a civil penalty for the violations described in this CAFO

in the amount of \$31,000. Respondent shall pay the penalty of \$31,000 within thirty (30) days of the Effective Date of this CAFO. Respondent shall submit a bank, cashier's, or certified check in payment of this penalty.

38. Respondent shall make payment by submitting a check, to the order of the "Treasurer, United States of America," in the amount of \$31,000 to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Respondent shall note the case name and docket number of this action (In the matter of American Shipyard Co., LLC Docket No. CAA-01-2013-0012) on the check and in an accompanying cover letter, and shall simultaneously provide copies of the check and cover letter to:

Wanda I. Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100 (ORA18-1)
Boston, MA 02109-3912

and

Kevin P. Pechulis
Enforcement Counsel
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100 (OES04-3)
Boston, MA 02109-3912

B. Compliance Measures

39. Respondent shall implement the measures described in Attachment 1, incorporated

herein by reference, which are intended to promote Respondent's compliance with applicable provisions of the Rhode Island SIP.

- a. Within 30 days of the Effective Date of this CAFO, Respondent shall apply to the Rhode Island Department of Environmental Management for a Rhode Island Air Pollution Control Permit that incorporates conditions no less stringent than Paragraph 1 of Attachment 1.
- b. Within 30 days of the end of the calendar quarter following the Effective Date of this CAFO, Respondent shall implement the compliance measures described in Paragraph 1 of Attachment 1.
- c. Within 30 days of the end of the calendar quarter following the Effective Date of this CAFO, Respondent shall implement a recordkeeping system that satisfies Paragraph 2 of Attachment 1.
- d. Within 30 days of the end of the calendar quarter following the Effective Date of this CAFO, Respondent shall implement a recordkeeping system and certification program that satisfies Paragraph 3 of Attachment 1.
- e. Starting with the second calendar quarter of 2013, within 30 days of the end of each calendar quarter, for the next four (4) quarters, Respondent shall submit a quarterly implementation report under Paragraph 4 of Attachment 1 to EPA in accordance with Paragraph 45 of this CAFO.
- f. Within 30 days of one year after the Effective Date of this CAFO, and

within 30 days of two years after the Effective Date of this CAFO, Respondent shall submit a report to EPA, in accordance with Paragraph 45 of this CAFO, describing Respondent's efforts to reduce VOC and HAP emissions from solvent/thinner usage and coating usage (including the use of non-compliant coatings) at its Facility, as well as Respondent's publication and outreach efforts to educate its customers about reducing VOC and HAP emissions from the use of solvent/thinners and coatings at its Facility.

40. Stipulated Penalties for Compliance Measures. Respondent shall be liable for stipulated penalties for actions required in Attachment 1 to this CAFO as follows:

- a. Respondent shall be liable for stipulated penalties in the amount of \$1,000 for every day beyond 30 days after the Effective Date of this CAFO on which Respondent fails to submit an application to the Rhode Island Department of Environmental Management for a Rhode Island Air Pollution Control Regulation 9 permit under Paragraph 1 of Attachment 1 to this CAFO.
- b. Respondent shall be liable for stipulated penalties in the amount of \$1,000 for every day beyond 30 days after the end of the calendar quarter following the Effective Date of this CAFO on which Respondent fails to implement the measures required under Paragraphs 1, 2 and 3 of Attachment 1 to this CAFO, until the issuance of a Rhode

Island Air Pollution Control Regulation 9 permit with conditions at least as stringent as those described in Paragraphs 1, 2 and 3 of Attachment 1.

- c. Respondent shall pay a stipulated penalty of \$500 for each day after a quarterly implementation report was originally due under Paragraph 39.e, or for each day after an annual report was originally due under Paragraph 39.f, until the report is submitted.
- d. Following EPA's determination that Respondent is liable for stipulated penalties pursuant to this Paragraph, EPA will send Respondent a written demand for the payment of penalties. All penalties accruing under this Paragraph shall be due and payable to EPA within thirty (30) days of Respondent's receipt of a demand for payment of stipulated penalties, unless Respondent invokes the dispute resolution procedures of this CAFO. All payments shall be made in accordance with the procedures in Paragraph 38 of this CAFO.
- e. EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued under this Paragraph.
- f. The determinations of whether the compliance measures required under Paragraphs 1, 2 and 3 of Attachment 1 to this CAFO have been completed in accordance with the requirements of Attachment 1 shall be made by EPA in the exercise of its reasonable discretion. If EPA determines that the measures required by Paragraphs 1, 2 and 3 of

Attachment 1 have not been completed in accordance with the requirements of Attachment 1, EPA shall provide Respondent with a written notice stating the basis for its decision, including a description of the requirements of Attachment 1 that EPA contends were not completed by Respondent.

V. GENERAL PROVISIONS

41. The dispute resolution procedures of Attachment 2 to this CAFO shall be the exclusive mechanism to resolve disputes arising under or with respect to Attachment 1 (Compliance Measures), including stipulated penalties relating to Attachment 1.
42. No other disputes shall be subject to dispute resolution procedures, and such procedures shall not apply to actions by EPA to enforce obligations of Respondent that have not been disputed in accordance with this Section.
43. The stipulated penalties under Paragraph 40 of this CAFO, the civil penalty under Paragraph 37, any interest, and the nonpayment penalties and/or charges as described in Paragraph 44, shall represent penalties within the meaning of Section 162(f) of the Internal Revenue Code, 26 U.S.C. § 162(f), assessed by EPA and shall not be deductible for purposes of federal taxes, and shall not be deductible for purposes of state or local taxes unless allowed by law.
44. Pursuant to Section 113(d)(5) of the CAA, if Respondent fails to pay any penalty amount it will be subject to an action to compel payment, plus interest, enforcement expenses, and a nonpayment penalty. 42 U.S.C. § 7413(d)(5). Interest will be assessed on

the penalty if it is not paid by the due date established herein. In that event, interest will accrue from the date the CAFO was signed by the EPA Regional Judicial Officer, at the "underpayment rate" established pursuant to 26 U.S.C § 6621(a)(2). In the event that the penalty is not paid when due, an additional charge will be assessed to cover the United States' enforcement expenses, including attorneys' fees and collection costs. A quarterly nonpayment penalty will be assessed for each quarter during which the failure to pay the penalty persists. Such nonpayment penalty shall be 10 percent of the aggregate amount of Respondent's outstanding penalties and nonpayment penalties hereunder accrued as of the beginning of such quarter.

45. Notices. Reports and notices required under this CAFO shall be submitted by electronic mail and mailed by postal or courier service, no later than the date specified in this CAFO, to:

Kevin P. Pechulis, Enforcement Counsel
U.S. Environmental Protection Agency, Region 1
5 Post Office Square – Suite 100 (Mail Code OES04-3)
Boston, Massachusetts 02109-3912
Email: Pechulis.Kevin@EPA.gov

In all reports or notices including, without limitation, the quarterly implementation reports, submitted to EPA pursuant to this CAFO, Respondent shall, by one of its officers, sign and certify under penalty of law that the information contained in such document or report is true, accurate, and not misleading by signing the following statement:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate

the information submitted. Based on my inquiry of the person or persons who manage the system, the information is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

46. This CAFO constitutes a settlement by EPA of all claims against Respondent for civil penalties pursuant to Section 113 of the Act for the violations alleged in Section II of this CAFO. Compliance with this CAFO shall not be a defense to any other actions subsequently commenced pursuant to Federal laws and regulations administered by EPA for matters not addressed in this CAFO, and it is the responsibility of Respondent to comply with all applicable provisions of federal, state, or local law. EPA reserves all of its other criminal and civil enforcement authorities, including the authority to seek injunctive relief and the authority to address imminent hazards.

47. Each party shall bear its own costs and fees in this proceeding, including attorneys' fees, and specifically waives any right to recover such costs from the other party pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504, or other applicable law.

VI. AUTHORIZATION

48. The undersigned representative of the Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Agreement and to execute and legally bind Respondent to it.

For Respondent:

Eli Dana

Title: manager

American Shipyard Co., LLC (d/b/a Newport Shipyard)

2/2/2013

Date

For Complainant:

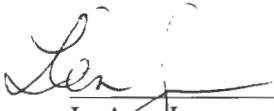
Susan Studlien
Susan Studlien, Director
Office of Environmental Stewardship
U.S. Environmental Protection Agency, Region I

02/07/13
Date

VII. FINAL ORDER

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. The Respondent is ordered to comply with the terms of the above Consent Agreement, effective on the date it is filed with the Regional Hearing Clerk.

U.S. ENVIRONMENTAL PROTECTION AGENCY



LeAnn Jensen
Acting Regional Judicial Officer
U.S. Environmental Protection
Agency, Region I

2/11/13
Date

Attachment 1

Compliance Measures

1. Respondent shall apply for and obtain a Rhode Island Air Pollution Control Regulation 9 permit that incorporates conditions no less stringent than the elements described below in this paragraph. Respondent shall implement the compliance measures described in this paragraph within 30 days of the end of the calendar quarter following the Effective Date of this CAFO.
 - a. compliance with an overall volatile organic compound (“VOC”) emission cap of 8 tons per year for Respondent’s facility, to be satisfied on a 12-month rolling basis;
 - b. compliance with the VOC-coating limits for pleasure craft described in the Ventura County (California) Air Pollution Control District (“VCAPCD”) regulations, effective as of the Effective Date of this CAFO;
 - i. the “as-applied” VCAPCD VOC coating limits may be met at Respondent’s facility on an “as-supplied” basis;
 - ii. Respondent shall produce and distribute to its customers a publication for two (2) years, which is updated on an annual basis, that provides information and recommendations regarding the use of low-VOC (or zero VOC) and low-HAP (or zero HAP) coating alternatives;
 - iii. Respondent shall submit an annual report to EPA for 2 years describing Respondent’s efforts to reduce VOC and HAP emissions from the use of coatings at its Facility, as well as Respondent’s publication and outreach efforts to educate its customers about reducing VOC and HAP emissions from the use of coatings at its Facility;
 - c. limit emissions from solvent/thinner usage at Respondent’s Facility to 2,800 pounds per year based on manufacturer’s specifications for each solvent/thinner, to be satisfied on a 12-month rolling basis (the solvent/thinner usage limitation will not include used solvents/thinners shipped off site for disposal);

- i. Respondent shall produce and distribute to its customers a publication for two (2) years, which is updated on an annual basis, that provides information and recommendations regarding the use of low-VOC (or zero VOC) and low-HAP (or zero HAP) solvent/thinner alternatives;
 - ii. Respondent shall submit an annual report to EPA for 2 years describing Respondent's efforts to reduce VOC and HAP emissions from the use of solvents/thinners at its Facility, as well as Respondent's publication and outreach efforts to educate its customers about reducing VOC and HAP emissions from the use of solvents/thinners at its Facility;
 - d. limit emissions from non-compliant coating usage at Respondent's Facility to 2,000 pounds per year based on manufacturer's specifications for each coating, to be satisfied on a 12-month rolling basis;
 - e. exclusive use of spray guys with high transfer efficiency (such as high volume low pressure and/or reduced pressure guns) at Respondent's Facility;
 - f. implement best work practices to minimize VOC and HAP emissions from coating applications and clean-up;
 - i. best work practices to include, at a minimum, the following practices: cleaning procedures that maximize solvent recovery, enclosing or sealing solvent rags and wipes, not excessively adding thinning agents to coatings, and keeping the lids of solvent containers closed.
2. Respondent shall implement a recordkeeping system that will record the information necessary to demonstrate compliance with Paragraphs 1(a) – 1(f) of this Attachment 1.
3. Respondent shall implement a recordkeeping system and certification program that will satisfy the applicable requirements of Rhode Island Air Pollution Control Regulation 19.

4. Respondent shall submit quarterly implementation reports to EPA for 15 months from the Effective Date of this CAFO to demonstrate compliance with the terms of Paragraphs 1, 2 and 3 of this Attachment 1.

Attachment 2

Dispute Resolution

A. Informal Dispute Resolution: Any dispute subject to dispute resolution under this CAFO shall first be the subject of informal negotiations. The dispute shall be considered to have arisen when Respondent provides written notice to EPA describing the nature of the dispute and requesting informal negotiations to resolve it. The period of informal negotiations shall not exceed twenty (20) days beyond the date that EPA receives Respondent's written notice unless EPA and Respondent agree in writing to a longer period. If the parties cannot resolve a dispute by informal negotiations, then the position advanced by EPA shall be considered binding unless, within fifteen (15) days after the conclusion of the informal negotiation period, Respondent invokes formal dispute resolution procedures as set forth below.

B. Formal Dispute Resolution: Respondent shall invoke formal dispute resolution procedures, within the time period provided in the preceding Paragraph A, by providing written notice to EPA containing a statement of position regarding the matter in dispute. The statement of position shall include, but may not be limited to, any factual data, analysis, or opinion supporting Respondent's position and any supporting documentation relied upon by Respondent. Following receipt of Respondent's statement of position submitted pursuant to this Paragraph, EPA will serve on Respondent its statement of position. EPA's statement of position shall include, but may not be limited to, any factual data, analysis, or opinion supporting EPA's position and any supporting

documentation relied upon by EPA.

C. Following receipt of the statements of position submitted by Respondent and EPA pursuant to Paragraph B, the Director of the Office of Environmental Stewardship (“OES Director”), EPA Region 1, will issue a determination resolving the dispute. The determination of the OES Director shall be final. The parties to this CAFO each reserve any rights they may have under applicable law with respect to any appeal from the determination of the OES Director.

D. The invocation of dispute resolution procedures shall not extend, postpone, or affect any obligation of Respondent under this CAFO not directly in dispute, unless the final resolution of the dispute so dictates. Stipulated penalties with respect to the disputed matter shall continue to accrue from the first day of nonperformance, but payment shall be stayed pending resolution of the dispute as provided in this Attachment 2. If Respondent does not prevail on the disputed issue, stipulated penalties shall be assessed and paid as provided in Paragraph 40 of the CAFO.