



**JURISDICTION**

3. EPA has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.
4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.50 in assessing Class I penalties under Sections 309(g).
5. Pursuant to Section 309(g)(1)(A), EPA has consulted with the State of Maryland Department of the Environmental (“MDE”) regarding this action and, subsequent to the Effective Date, EPA will mail a copy of this fully executed Consent Agreement and Final Order to the appropriate MDE representative.

**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 Paragraph 6, 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 this 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 waives its right to appeal the accompanying 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.
12. Pursuant to Section 309(g)(4)(A) of the CWA, 33 U.S.C. § 1319(g)(4)(A), and 40 C.F.R. § 22.45(b), EPA is providing public notice and an opportunity to comment on the Consent Agreement prior to issuing the Final Order.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

13. 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.
14. Section 402(a) of the Act, 33 U.S.C. § 1342(a), provides that the Administrator of EPA may issue permits under the National Pollutant Discharge Elimination System (“NPDES”) program for the discharge of pollutants from point sources to waters of the

- United States. The discharges are subject to specific terms and conditions as prescribed in the permit. Section 402(b) of the Act, 33 U.S.C. § 1342(b), provides for the authorization of state programs to issue NPDES permits.
15. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant from a point source into waters of the United States except in compliance with, among other things, a permit issued pursuant to the National Pollutant Discharge Elimination System (“NPDES”) program under Section 402 of the Act, 33 U.S.C. § 1342.
  16. “Pollutant” is defined as “dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.” 40 C.F.R. § 122.2. See also 33 U.S.C. § 1362(6).
  17. “Discharge of a pollutant” means “[a]ny addition of any ‘pollutant’ or combination of pollutants to ‘waters of the United States’ from any ‘point source.’” 40 C.F.R. § 122.2. See also 33 U.S.C. § 1362(12).
  18. “Stormwater” is defined as “storm water runoff, snow melt runoff, and surface runoff and drainage.” 40 C.F.R. § 122.26(b)(13).
  19. “Stormwater discharge associated with industrial activity” is defined as “the discharge from any conveyance that is used for collecting and conveying storm water and that is directly related to manufacturing, processing, or raw materials storage areas at an industrial plant . . . .” 40 C.F.R. § 122.26(b)(14). The term includes storm water discharges from facilities classified as Standard Industrial Classification (“SIC”) 5015. 40 C.F.R. § 122.26(b)(14)(vi).
  20. Section 402(p) of the CWA, 33 U.S.C. § 1342(p), and implementing regulation at 40 C.F.R. § 122.26(a)(1)(ii), require facilities discharging stormwater associated with industrial activity to obtain a permit. Under 40 C.F.R. § 122.26(c)(1), dischargers of stormwater associated with industrial activity must apply for an individual permit or seek coverage under a general permit.
  21. Pursuant to Section 402(b) of the Act, 33 U.S.C. § 1342(b), the State of Maryland, through the MDE, is authorized by EPA to administer the NPDES program in Maryland.
  22. Maryland, through MDE, has incorporated the NPDES Permit program requirements of Section 402 of the CWA, 33 U.S.C. § 1342, into its state law.
  23. Pursuant to the authority of the CWA, MDE issued the NPDES General Permit for Discharges of Stormwater Associated with Industrial Activities (Registration No. MDR003328) (“Permit”), which authorizes certain discharges from the Facility into the North Branch Patapsco River. The Facility is classified under Section M of the Permit, Automobile Salvage Yard, Standard Industrial Classification Code (SIC) 5015 – Motor Vehicle Parts, Used. The Permit is also known as 12-SWA and is available at

<https://mde.maryland.gov/programs/permits/WaterManagementPermits/Documents/GDP%20Stormwater/Modification%20A%20%282018%29/12SW-Permit-w-ModA.pdf>.

24. The Permit became effective January 1, 2014, and expired December 31, 2018. MDE has administratively extended the Permit to July 31, 2023, and then reissued the permit, with an expiration date of January 31, 2028.
25. The Permit authorizes the discharge of stormwater associated with industrial activity in accordance with the provisions of the Permit.
26. A violation of the Permit is also a violation of the CWA and may be subject to penalties established under that statute.
27. Respondent applied for and was granted coverage under the Permit to discharge stormwater associated with industrial activity from its facility, beginning January 1, 2014, and extended through January 31, 2028.
28. Pursuant to Section 402(i) of the CWA, 33 U.S.C. § 1342(i), EPA retains its authority to take enforcement action within Maryland for NPDES permit violations.
29. Section 309(g) of the CWA, 33 U.S.C. § 1319(g), authorizes the assessment of administrative penalties against any person who violates any NPDES permit condition or limitation.
30. Shifflett's Used Auto Parts is, and at all times relevant to this Consent Agreement and Final Order was, the permittee. Shifflett's Used Auto Parts is the owner and the operator of an automobile salvage yard located at 724 Gorsuch Road, Westminster, MD, 21157 (the "Facility").
31. Shifflett's Used Auto Parts, LLC is a company organized and existing under the laws of the State of Maryland and is a "person" within the meaning of Section 502(5) of the Act, 33 U.S.C. § 1362(5), and is subject to the assessment of civil penalties for the violations alleged herein.
32. Respondent is, and at all times relevant to this Consent Agreement and Final Order was, engaging in "industrial activity" at the Facility, within the meaning of 40 C.F.R. § 122.26(a)(1)(ii).
33. The Facility discharges, and at all times relevant to this Consent Agreement and Final Order discharged, stormwater through outfalls identified in its Permit into the North Branch Patapsco River which is a "water of the United States" within the meaning of Section 502(7) of the Act, 33 U.S.C. § 1362(7).
34. On February 15, 2022, an EPA inspector and a representative from the Maryland Department of the Environment ("MDE") conducted a compliance evaluation inspection ("CEI") at the Facility.

35. Based on the CEI, EPA has identified the following violations of the Permit, and Section 301 of the CWA, 33 U.S.C. § 1311, described in the Paragraphs below.

**Count I**

**Failure to Maintain an Adequate Stormwater Pollution Prevention Plan (SWPPP) Map**

36. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
37. Part III.C.2.c of the Permit requires the following fourteen elements to be included in the required Stormwater Pollution Prevention Plan (“SWPPP”) site map:
- a. size of the property in acres;
  - b. the location and extent of significant structures and impervious surfaces;
  - c. the location and extent for planned restoration of impervious surfaces, or nutrient reduction measures;
  - d. directions of stormwater flow (use arrows);
  - e. locations of all existing structural control measures or best management practices (“BMPs”);
  - f. locations of all receiving waters in the immediate vicinity of your facility, indicating if any of the waters are impaired and if so, whether the waters have total maximum daily loads (“TMDLs”) established for them;
  - g. locations of all stormwater conveyances including ditches, pipes, and swales;
  - h. locations of potential pollutant sources identified under Part III.C.3;
  - i. locations where significant spills or leaks identified under Part III.C.3 have occurred;
  - j. locations of all stormwater monitoring points;
  - k. locations of all stormwater inlets and outfalls, with a unique identification code for each outfall (e.g., Outfall No. 1, No. 2, etc.) indicating if you are treating one or more outfalls as substantially identical, and an approximate outline of areas draining to each outfall;
  - l. municipal separate storm sewer systems, where your stormwater discharges to them;
  - m. locations and descriptions of all non-stormwater discharges identified under Part I.E.3; and

- n. locations of the following activities where such activities are exposed to precipitation:
    - i. fueling stations;
    - ii. vehicle and equipment maintenance and/or cleaning areas;
    - iii. loading/unloading areas;
    - iv. locations used for treatment, storage, or disposal of wastes;
    - v. liquid storage tanks; and
    - vi. processing and storage areas.
38. At the time of CEI, EPA observed the following elements missing from the SWPPP site map:
- a. Size of the property in acres;
  - b. Locations of all existing structural control measures or BMPs;
  - c. Locations of all potential pollutant sources identified under Part III.C.3;
  - d. Locations where significant spills or leaks identified under Part III.C.3 have occurred;
  - e. Locations of all stormwater monitoring points;
  - f. Locations and descriptions of all non-stormwater discharges identified under Part I.E.3;
  - g. Locations of the following activities where such activities are exposed to precipitation:
    - i. fueling stations;
    - ii. vehicle and equipment maintenance and/or cleaning areas;
    - iii. loading/unloading areas;
    - iv. locations used for the treatment, storage, or disposal of wastes;
    - v. liquid storage tanks;
    - vi. processing and storage areas;
    - vii. immediate access roads and rail lines used or traveled by carriers of raw materials;

- viii. manufactured products, waste material, or by-products used or created by the Facility;
  - ix. transfer areas for substances in bulk; and
39. At the time of the CEI, Respondent failed to maintain a SWPPP map that included the elements required by the Permit.
40. At the time of the CEI, Respondent violated Part III.C.2.c of the Permit issued pursuant to Section 402 of the Act, 33 U.S.C. § 1342, and Section 301 of the Act, 33 U.S.C. § 1311, by failing to maintain a SWPPP map that included the elements required by the Permit.
41. In failing to comply with Part III.C.2.c of the Permit and Section 301 of the Act, 33 U.S.C. § 1311, Respondent is subject to the assessment of penalties under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

**Count 2**  
**Failure to Document Routine Facility Inspections**

42. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
43. Part V.A.1 of the Permit requires, “At least once per quarter, you must conduct a site assessment that will review the effectiveness of the SWPPP. At least once each calendar year, the routine facility inspection must be conducted during a period when a stormwater discharge is happening.”
44. At the time of the Inspection, EPA observed the Facility had no documents identifying any quarterly inspections during stormwater discharge events from 2021 through April 2022. Respondent’s failure to document routine facility inspections during periods of stormwater discharge violated Part V.A.1 of the Permit issued pursuant to Section 402 of the Act, 33 U.S.C. § 1342, and Section 301 of the Act, 33 U.S.C. §§ 1311.
45. From calendar year 2021 through April 2022, Respondent violated Part V.A.1 of the Permit issued pursuant to Section 402 of the Act, 33 U.S.C. § 1342, and Section 301 of the Act, 33 U.S.C. § 1311, by failing to document a routine facility inspection conducted during a period when a stormwater discharge was occurring.
46. In failing to comply with Part V.A.1 of the Permit and Section 301 of the Act, 33 U.S.C. § 1311, Respondent is subject to the assessment of penalties under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

**Count 3**  
**Failure to Ensure Good Housekeeping**

47. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.

48. Part III.B.1.b.ii of the Permit requires the Facility to “keep clean all exposed areas that are potential sources of pollutants, using such measures as sweeping at regular intervals, keeping materials orderly and labeled, and storing materials in appropriate containers. A good practice for ensuring housekeeping activities is performed at regular intervals would be keeping a schedule for routine grounds maintenance and cleanup.”
49. Part III.B.1.b.iv of the Permit requires the Facility to “minimize the potential for leaks, spills and other releases that may be exposed to stormwater and develop plans for effective response to such spills if or when they occur.” At a minimum, this requires “[p]reventative measures such as barriers between material storage and traffic areas, secondary containment provisions, and procedures for material storage handling.” Further, Part III.B.1.b.v of the Permit requires the Facility to “stabilize exposed areas and contain runoff using structural and/or non-structural control measures to minimize onsite erosion and sedimentation, and the resulting discharge of pollutants.”
50. At the time of the CEI, EPA inspectors observed a 250-gallon, single-walled above-ground storage tank (“AST”) containing diesel in the yard without secondary containment. Petroleum stains were observed on the ground in the immediate vicinity of the AST.
51. At the time of the CEI, EPA inspectors also observed petroleum stains and spill absorbent material on the ground in various locations at the Facility.
52. In addition, at the time of the CEI, EPA inspectors identified an unlabeled drum stored at the Facility containing unknown liquid under a tarp with no lid. The drum was not in secondary containment. The area near the unlabeled drum smelled of petroleum products.
53. At the time of the CEI, EPA inspectors also identified spilled antifreeze and transmission fluid around the totes outside of the Main Building’s north wall. Spill absorbent material was observed surrounding the totes.
54. EPA inspectors also observed a forklift stored north of the Main Building leaking hydraulic fluid during the CEI. No drip pans or absorbents were observed under or around the vehicle.
55. At the time of the CEI, Respondent’s violated Parts III.B.1.b.ii, iv, and v of the Permit issued under Section 402 of the Act, 33 U.S.C. § 1342 and Section 301 of the Act, 33 U.S.C. § 1311, by failing to ensure good housekeeping at the Facility, as described above.
56. In failing to comply with Part III.B.1.b of the Permit and Section 301 of the Act, 33 U.S.C. §§ 1311, Respondent is subject to the assessment of penalties under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

#### **Count 4**

#### **Failure to Maintain Proper Operation and Maintenance**

57. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.



58. Appendix D Sector M.M.2.1 of the Permit requires the operator to “Drain vehicles intended to be dismantled of all fluids upon arrival at the site (or as soon thereafter as feasible) or employ some other equivalent means to prevent spills and leaks. You must establish clean-up mechanisms and procedures for all fluids (e.g., anti-freeze, used, oil, used fuel, etc.) for all locations that vehicles will be drained of fluids or any equipment receives fluids, and ensure all batteries from vehicles are protected from exposure to stormwater upon arrival at the site.”
59. Appendix D Sector M.M.3.2 of the Permit requires the operator to “Assess the potential for the following to contribute pollutants to stormwater discharges: vehicle storage areas, dismantling areas, parts storage areas (e.g., engine blocks, tires, hub caps, batteries, hoods, mufflers), and fueling stations. Facilities that crush vehicles produce a residual fluid that contains petroleum, metal, and glass fines. These byproducts will need to be identified as potential pollutants and measures shall be identified to ensure they do not commingle with stormwater. Fluids collected must be handled appropriately.”
60. At the time of the CEI, EPA observed multiple uncovered or partially covered engines throughout the yard.
61. At the time of the CEI, EPA inspectors also observed an uncovered dumpster onsite that contained engines and a battery.
62. In addition, at the time of the CEI, EPA inspectors identified multiple vehicles on the lot where batteries and/or fluids had not been fully removed.
63. At the time of the CEI, Respondent failed to have mechanisms and procedures ensuring batteries and vehicle fluids were not exposed to stormwater, in violation of Appendix D Sector M.M.2.1 and M.M.3.2 of the Permit issued under Section 402 of the Act, 33 U.S.C. § 1342 and Section 301 of the Act, 33 U.S.C. § 1311.
64. In failing to comply with Appendix D of the Permit and Section 301 of the Act, 33 U.S.C. § 1311, Respondent is subject to the assessment of penalties under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

**Count 5**  
**Failure to Define All Outfalls**

65. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
66. Part V.C.1 of the Permit requires the Facility to “conduct monitoring as required by this permit at each outfall authorized by this permit, except when an outfall is exempt from monitoring as a substantially identical outfall. If your facility has two or more outfalls that you believe discharge substantially identical effluents, based on the similarities of the general industrial activities and control measures, exposed materials that may significantly contribute pollutants to stormwater, and runoff coefficients of their drainage areas, you may monitor the effluent of just one of the outfalls and report that the results

also apply to the substantially identical outfall(s). As required in Part III.C.5, your SWPPP must identify each outfall authorized by this permit and describe the rationale for any substantially identical outfall determinations.”

67. Appendix E of the Permit defines an outfall as “Locations where collected and concentrated stormwater flows are discharged from the facility, including pipes, ditches, swales, and other structures that transport stormwater.”
68. At the time of the CEI, EPA inspectors observed an outfall location near the southwest perimeter of the Facility that was not included in the SWPPP map. Subsequently, the location was added and identified as Outfall 002.
69. At the time of Inspection, Respondent failed to identify Outfall 002 in violation of Part III.C.5 of the Permit issued under Section 402 of the Act, 33 U.S.C. § 1342 and Section 301 of the Act, 33 U.S.C. § 1311, and failed to conduct monitoring required by Part V.C.1 of the Permit.
70. In failing to comply with Part V.C.1 of the Permit and Section 301 of the Act, 33 U.S.C. § 1311, Respondent is subject to the assessment of penalties under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

#### CIVIL PENALTY

71. 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 **twenty-two thousand seven hundred and fifty dollars** (\$22,750.00), which Respondent shall be liable to pay in accordance with the terms set forth below.
72. The civil penalty is based upon EPA’s consideration of a number of factors, including the penalty criteria (“statutory factors”) set forth in Section 309(g) of the CWA, 33 U.S.C. § 1319(g), including, the following: the nature, circumstances, extent and gravity of the violations, the violator’s ability to pay, any prior history of such violations, the degree of culpability, economic benefit or savings resulting from the violation, and such other matters as justice may require. These factors were applied to the particular facts and circumstances of this case and adjusted in accordance with 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.
73. 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.*, CWA-03-2024-0051;
  - 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 979078  
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 **by email** to:

Douglas Frankenthaler  
Assistant Regional Counsel  
[frankenthaler.douglas@epa.gov](mailto:frankenthaler.douglas@epa.gov)

**and**

U.S. EPA Region 3 Regional Hearing Clerk  
[R3\\_Hearing\\_Clerk@epa.gov](mailto:R3_Hearing_Clerk@epa.gov).

74. 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.
75. Payment of the civil penalty is due and payable immediately upon the effective date of this 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 as of the effective date of this Consent Agreement and Final Order by Respondent in accordance with 40 C.F.R. § 13.9(a).
76. INTEREST: Interest on the civil penalty assessed in this Consent Agreement and Final Order will begin to accrue on the effective date of this Consent Agreement and Final Order. However, EPA will not seek to recover interest on any amount of the civil penalties that is paid within thirty (30) calendar days after the effective date of this

Consent Agreement and Final Order. 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).

77. 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). If payment is not received within 30 calendar days of the effective date of this Consent Agreement, EPA will also 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.
78. 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).
79. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.
80. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service ("IRS") annually, a completed IRS Form 1098-F ("Fines, Penalties, and Other Amounts") with respect to any court order or settlement agreement (including administrative settlements), that require a payor to pay an aggregate amount that 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." EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number ("TIN"), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. In order to provide EPA with sufficient information to enable it to fulfill these obligations, EPA herein requires, and Respondent herein agrees, that:
  - a. Respondent shall complete an IRS Form W-9 ("Request for Taxpayer Identification Number and Certification"), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
  - b. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent's correct TIN or that Respondent has applied and is waiting for issuance of a TIN;
  - c. Respondent shall email its completed Form W-9 to EPA's Cincinnati Finance Center at [henderson.jessica@epa.gov](mailto:henderson.jessica@epa.gov), within 30 days after the Final Order ratifying this Agreement is filed, and EPA recommends encrypting IRS Form W-

9 email correspondence; and

- d. In the event that Respondent has certified in its completed IRS Form W-9 that it has applied for a TIN and that TIN has not been issued to Respondent within 30 days after the Effective Date, then Respondent, using the same email address identified in the preceding sub-paragraph, shall further:
    - i. notify EPA's Cincinnati Finance Center of this fact, via email, within 30 days after the 30 days after the Effective Date of this Order; and
    - ii. provide EPA's Cincinnati Finance Center with Respondent's TIN, via email, within five (5) days of Respondent's issuance and receipt of the TIN.
81. **The Parties consent to service of the Final Order by e-mail at the following valid e-mail addresses: [frankenthaler.douglas@epa.gov](mailto:frankenthaler.douglas@epa.gov) (for Complainant), and [suapmd@gmail.com](mailto:suapmd@gmail.com) and [thomas.prevas@saul.com](mailto:thomas.prevas@saul.com) (for Respondent).**

#### **GENERAL SETTLEMENT CONDITIONS**

82. 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.
83. 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 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**

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

**OTHER APPLICABLE LAWS**

85. 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 CWA, 33 U.S.C. § 1251 *et seq.*, or any regulations promulgated thereunder.

**RESERVATION OF RIGHTS**

86. 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 the CWA, 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. Respondent reserves whatever rights or defenses it may have to defend itself in any such action.

**EXECUTION / PARTIES BOUND**

87. 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**

88. Pursuant to 40 C.F.R. § 22.45(b), this Consent Agreement and Final Order shall be issued only after a 40-day public notice and comment period is concluded. This Consent Agreement and Final Order will become final and effective thirty (30) days after having


been signed by the Regional Administrator or his delegate, the Regional Judicial Officer, and filed with the Regional Hearing Clerk.

**ENTIRE AGREEMENT**

89. 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.

For Respondent: SHIFFLETT'S USED AUTO PARTS, LLC

Date: 2/6/24

By:   
\_\_\_\_\_  
Jeffrey Shifflett  
President  
Shifflett's Used Auto Parts



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 3, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or his designee, the Regional Judicial Officer, issue the attached Final Order.

By: \_\_\_\_\_  
[Digital Signature and Date]  
Karen Melvin, Director  
Enforcement & Compliance Assurance Division  
U.S. EPA – Region 3  
Complainant

Attorney for Complainant:

By: \_\_\_\_\_  
[Digital Signature and Date]  
Douglas Frankenthaler  
Assistant Regional Counsel  
U.S. EPA – Region 3



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 the Clean Water Act and the regulations promulgated thereunder.

The Effective Date of the attached Consent Agreement and this Final Order is thirty (30) days after the date on which this Final Order is signed by the Regional Administrator or his delegate, the Regional Judicial Officer, and filed with the Regional Hearing Clerk.

By: \_\_\_\_\_  
[Digital Signature and Date]  
Joseph J. Lisa  
Regional Judicial and Presiding Officer  
U.S. EPA – Region 3



Copies served via email to:

Jeff Shifflett  
Shifflett's Used Auto Parts  
[suapmd@gmail.com](mailto:suapmd@gmail.com)

and

Thomas K. Prevas, Esquire  
Saul Ewing, LLP  
[thomas.prevas@saul.com](mailto:thomas.prevas@saul.com)

By:

\_\_\_\_\_  
[Digital Signature and Date]  
Regional Hearing Clerk  
U.S. EPA – Region 3