UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

In the Matter of: Shield Packaging Co., Inc. 50 Oxford Avenue Dudley, Massachusetts 01571, Respondent. Proceeding under Section 113(d) of the Clean Air Act	Docket No. CAA-01-2024-0040 **CONSENT AGREEMENT AND FINAL ORDER**

CONSENT AGREEMENT

A. PRELIMINARY STATEMENT

1. The issuance of this Consent Agreement and Final Order ("CAFO"), in accordance with 40 C.F.R. § 22.13(b), simultaneously commences and concludes an administrative penalty assessment proceeding brought under Section 113(d) of the Clean Air Act ("CAA"), 42 U.S.C. § 7413(d), and Sections 22.13 and 22.18 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules"), as codified at 40 C.F.R. Part 22.

2. Complainant is the United States Environmental Protection Agency ("EPA"), Region 1.

3. Respondent is Shield Packaging Co., Inc. ("Shield Packaging"), a Massachusetts corporation doing business in Massachusetts.

4. Complainant and Respondent (together, the "Parties"), having agreed that settlement of this action is in the public interest, consent to the entry of this CAFO without adjudication of any issues of law or fact herein. Respondent agrees to comply with the CAFO's terms and conditions set out below.

B. JURISDICTION

5. This CAFO is issued under Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and the Consolidated Rules at 40 C.F.R. Part 22.

6. EPA and the United States Department of Justice have jointly determined that this matter, although it involves alleged violations that occurred more than one year before the initiation of this proceeding, is appropriate for administrative penalty action in accordance with Section 113(d) of the CAA, 42 U.S.C. § 7413(d).

C. STATUTORY AND REGULATORY AUTHORITY

Clean Air Act Section 112(r)(7) Risk Management Plan Requirements

7. Section 112(r) of the CAA, 42 U.S.C. § 7412(r), authorizes EPA to promulgate regulations and programs to prevent, and minimize the consequences of, accidental releases of certain regulated substances.

8. In particular, Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), requires EPA to promulgate a list of substances that are known to cause or may reasonably be anticipated to cause death, injury, or serious adverse effects to human health or the environment if accidentally released. Section 112(r)(5) of the CAA, 42 U.S.C § 7412(r)(5), requires EPA to establish for each of these listed substances a threshold quantity that, if accidentally released, is known to cause or may reasonably be anticipated to cause death, injury, or serious adverse effects to human health.

9. Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), requires EPA to promulgate requirements for the prevention, detection, and correction of accidental releases of the listed substances, including a requirement that an owner and operator of a stationary source that has a listed substance above a threshold quantity must prepare and implement a risk management plan. Pursuant to Section 112(r)(7) of the CAA, EPA has promulgated regulations that contain risk management plan ("RMP") and program requirements for sources that have listed substances above threshold quantities. These regulations are found at 40 C.F.R. Part 68, §§ 68.1-68.220 (hereinafter, the "RMP regulations" or "Part 68"). The RMP regulations also identify the listed substances (hereinafter, the "regulated substances" or "RMP chemicals") and their threshold quantities at 40 C.F.R. § 68.130.

10. Under 40 C.F.R. § 68.10, an owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process must comply with the requirements of the RMP Regulations by no later than the latest of the following dates: (a) June 21, 1999; (b) three years after the date on which a regulated substance is first listed under 40 C.F.R. § 68.130; or (c) the date on which a regulated substance is first present above a threshold quantity in a process.

11. A "stationary source" is defined by 40 C.F.R. § 68.3 as any buildings, structures, equipment, installations, or substance emitting stationary activities which belong to the same

industrial groups, which are located on one or more contiguous properties, which are under the control of the same person (or persons under common control), and from which an accidental release may occur.

12. A "process" is defined by 40 C.F.R. § 68.3 as any activity involving a regulated substance, including any use, storage, manufacturing, handling, or on-site movement of such substances, or combination of these activities. For the purposes of this definition, any group of vessels that are interconnected, or separate vessels that are located such that a regulated substance could be involved in a potential release, shall be considered a single process. A "covered process" is defined by 40 C.F.R. § 68.3 as any process that has a regulated substance present in greater than a threshold quantity.

13. The owner or operator of a stationary source with a covered process is subject to one of three risk management programs, for which eligibility requirements are set forth in 40 C.F.R. § 68.10. Program 1 is the least comprehensive, and Program 3 is the most comprehensive. Under 40 C.F.R. § 68.10(g), a covered process is subject to Program 1 if, among other things, the distance to a toxic or flammable endpoint for a worst-case release assessment is less than the distance to any public receptor. Under 40 C.F.R. § 68.10(i), a covered process is subject to Program 3 if the process does not meet the eligibility requirements for Program 1 and is either in certain specified NAICS codes or subject to the Occupational Safety and Health Administration ("OSHA") process safety management ("PSM") standard set forth at 29 C.F.R. § 1910.119. Under 40 C.F.R. § 68.10(h), a covered process meeting neither Program 1 nor Program 3 eligibility requirements is subject to Program 2.

14. Forty C.F.R. § 68.12 requires the owner or operator of a stationary source subject to Part 68 to implement the chemical accident prevention provisions to which it is subject and submit an RMP to EPA. The RMP documents compliance with Part 68.

15. The RMP for a Program 3-covered process documents compliance with the elements of a Program 3 Risk Management Program, including 40 C.F.R. § 68.12 (General Requirements); 40 C.F.R. § 68.15 (Management System to Oversee Implementation of RMP); 40 C.F.R. Part 68, Subpart B (Hazard Assessment to Determine Off-Site Consequences of a Release); 40 C.F.R. Part 68, Subpart D (Program 3 Prevention Program); and 40 C.F.R. Part 68, Subpart E (Emergency Response Program).

16. Additionally, 40 C.F.R. § 68.190(b) requires that any RMP submitted to EPA under Part 68 be revised and updated at least once every five years.

17. Sections 113(a) and (d) of the CAA, 42 U.S.C. §§ 7413(a) and (d), allow EPA to assess civil penalties for violations of Part 68. Forty C.F.R. Part 19 sets out the statutory penalties as adjusted for inflation.

D. BACKGROUND FACTS

18. Respondent is the owner and operator of a manufacturing facility ("Facility") located at 50 Oxford Avenue in Dudley, Massachusetts. The Facility includes an 80,000 square foot main building, an outbuilding, outdoor tanks, and loading areas. At the Facility, which employs approximately 40 full-time and 30 part-time employees, Respondent manufactures aerosol products, including lubricants, window cleaners, and parts cleaners.

19. The two-story main building includes administrative offices, raw material storage, product and packaging, raw material batch mixing tanks, and a hazardous waste accumulation area.

20. In the Facility's manufacturing processes, Respondent uses various highly flammable chemicals. Four of these chemicals are stored in pressurized horizontal tanks outside the main building. Other flammable chemicals are stored in outdoor vertical storage tanks, in indoor tanks in the Facility's Mixing Room, and in other designated indoor flammable product storage areas.

21. Outdoors, there are four pressurized tanks, as follows: a 30,000-gallon tank containing dimethyl ether ("DME"); a 30,000-gallon tank containing butane/propane (known as AB-70 propellant); a 6,000-gallon tank containing isobutane (known as A-31 propellant); and a 6,000-gallon tank containing propane (known as A-108 propellent). (Hereinafter, these four tanks are referred to as the "RMP Tanks.") Separate from the RMP Tanks, there are also two outdoor vertical tanks that have been used for product ingredient processing of D-95 distillates and mineral spirits, respectively.

22. Flammable chemicals from the four outdoor pressurized RMP Tanks are piped via overhead piping into the Facility's Gas Propellant Injection Room ("Gas Room"), where the chemicals are injected as aerosol propellants into Respondent's products on one of four production lines. Raw materials for Respondent's products are blended in a separate "Mixing Room" in the Facility. The materials are then placed into cans. The filled cans are aerosolized in the Gas Room as described above using flammable chemicals from the outdoor RMP Tanks.

23. The Facility is located along the west side of the French River and is adjacent to residential neighborhoods and businesses. Two restaurants, a church, and a city park are located less than 500 feet from the Facility. An elementary school is located approximately 0.3 miles from the Facility's outdoor RMP tank farm.

24. Respondent, Shield Packaging Co., is a corporation organized under the laws of Massachusetts with its principal office located in Canton, Massachusetts.

25. As a corporation, Respondent is a "person" within the meaning of Section 302(e) of the CAA, 42 U.S.C. § 7602(e), against whom an administrative penalty order may be issued under Section 113(a)(3) of the CAA, 42 U.S.C. § 7413(a)(3).

26. The Facility, including its storage tanks and equipment, is a "stationary source" as that term is defined at Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), and 40 C.F.R. § 68.3.

27. Propane is an RMP chemical listed under 40 C.F.R. § 68.130, with a threshold quantity of 10,000 pounds. Respondent acknowledges that the Facility stores, handles, and uses propane in an amount greater than the threshold amount under 40 C.F.R. § 68.130.

28. Isobutane is an RMP chemical listed under 40 C.F.R. § 68.130, with a threshold quantity of 10,000 pounds. Respondent acknowledges that the Facility stores, handles, and uses isobutane in an amount greater than the threshold amount under 40 C.F.R. § 68.130.

29. Butane is an RMP chemical listed under 40 C.F.R. § 68.130, having a threshold quantity of 10,000 pounds. Respondent acknowledges that the Facility stores, handles, and uses butane in an amount greater than the threshold amount under 40 C.F.R. § 68.130.

30. DME is an RMP chemical listed under 40 C.F.R. § 68.130, having a threshold quantity of 10,000 pounds. Respondent acknowledges that the Facility stores, handles, and uses DME in an amount greater than the threshold amount under 40 C.F.R. § 68.130.

31. The Facility's aerosol product manufacturing process, which stores, handles, and uses RMP chemicals, is a "process," as defined in 40 C.F.R. § 68.3.

32. The Facility's aerosol product manufacturing process, which stores, handles, and uses RMP chemicals in quantities greater than their specified threshold amounts, is a "covered process," as defined in 40 C.F.R. § 68.3.

33. The RMP chemicals described above, which are used in the Facility's manufacturing processes in amounts greater than 10,000 pounds each, are subject to OSHA's PSM requirements at 29 C.F.R. § 1910.119.

34. As the owner and operator of a stationary source that has more than the threshold amounts of RMP chemicals present in a covered process, Respondent is subject to the RMP regulations. In accordance with 40 C.F.R. § 68.10(g)-(i), Respondent's use, storage, and handling of the RMP chemicals at the Facility is subject to the requirements of RMP Program 3. The covered process is subject to Program 3 because (1) the distance to a toxic or flammable endpoint for a worst-case release of the RMP Chemicals is more than the distance to a public

receptor, making the process ineligible for Program 1; and (2) the process is subject to OSHA's PSM regulations.

35. On August 4, 2021, representatives from EPA Region 1 conducted an announced inspection at the Facility (the "EPA Inspection") to assess Respondent's compliance with the requirements of CAA Section 112(r), including the RMP regulations and other federal environmental laws and regulations. Respondent provided various information and documents to EPA's representatives during the EPA Inspection and provided additional information and documents thereafter.

36. On April 28, 2022, EPA Region 1 issued Respondent a CAA Information Request ("April 2022 Information Request") that requested certain specific information relating to Respondent's compliance with CAA Section 112(r) and the RMP regulations. Respondent provided responses to the April 2022 Information Request on June 15, 2022.

37. Based on documents and other information provided by Respondent or otherwise collected by Complainant during EPA Region 1's investigation of the compliance of Respondent's Facility with CAA Section 112(r) and the RMP Regulations, on September 25, 2023, EPA issued a draft Notice of Violation and an Administrative Compliance Order ("NOV/AO") to Respondent and provided Respondent an opportunity to comment. Respondent submitted comments on October 13, 2023.

38. EPA issued a final NOV/AO to Respondent on November 11, 2023. The NOV/AO alleged some, but not all of the violations listed below in Section E. Respondent has been cooperative in complying with the NOV/AO since its issuance.

E. ALLEGED VIOLATIONS

Count 1: Failure Update Process Hazard Analysis as Required by RMP Regulations

39. The allegations in paragraphs 1 through 38 are hereby realleged and incorporated herein by reference.

40. Pursuant to 40 C.F.R. § 68.67, the owner or operator of a stationary source with a covered process subject to the RMP Regulations' Program 3 requirements must, among other things, perform an initial process hazard analysis ("PHA") on the covered process. The PHA must be updated and revalidated at least every five years after the completion of the initial PHA. *See* 40 C.F.R. § 68.67(f). Further, the owner or operator must retain the PHA and all PHA updates. *See* 40 C.F.R. § 68.67(g).

41. Pursuant to a prior EPA Region 1 enforcement case settlement with Respondent for alleged violations of CAA 112(r) and other federal environmental laws and regulations, Respondent updated its PHA in May 2013.

42. Respondent stated in its latest RMP, which was electronically filed on September 24, 2019, that it had conducted a PHA update on April 4, 2018.

43. Prior to and after the EPA Inspection, EPA Region 1 inspectors requested that Respondent provide its PHAs to EPA. In response to these requests, Respondent did not provide any PHAs that were later than 2012 – not even the May 2013 update, which EPA found in old case files as part of materials submitted by Respondent in 2013.

44. Again, in its April 2022 Information Request, EPA asked Respondent to provide dates for all PHA updates from 2012 to the present and provide a copy of the Facility's most recent PHA. In its June 2022 response to EPA, Respondent stated that the Facility "completed a PHA in 2019" and that a copy of the results was attached. However, no copy was attached to Respondent's June 2022 responses, and to date no copy has been provided.

45. On June 21, 2023, an EPA Region 1 inspector emailed Respondent and requested that the PHA conducted in 2018 that was previously referred to by Respondent be provided to EPA. The email also requested any documentation that described Respondent's responses to issues identified in the 2018 PHA. On July 19, 2023, Respondent replied via email. Respondent did not provide the 2018 PHA, instead stating that the Facility "is still searching for this document." Further, Respondent provided no documentation regarding any Facility responses to the issues identified in the 2018 PHA.

46. As demonstrated above, EPA has formally and informally requested that Respondent provide its most recent PHAs, including PHAs that Respondent stated were performed in 2018 and 2019. However, the most recent PHA that EPA has ever received from Respondent is a PHA performed in May 2013.

47. Respondent was required to update and revalidate its May 2013 PHA at least every five years, i.e., by no later than May 2018, and then again by no later than May 2023.

48. Respondent had not updated and revalidated its PHA for the Facility's covered process at least every 5 years, as required by 40 C.F.R. § 68.67(f).

49. Pursuant to the NOV/AO, Respondent updated its PHA in March of 2024, submitting a PHA report on March 15, 2024.

50. Accordingly, from at least March 15, 2019, to March 15, 2024, Respondent violated the PHA requirements of the RMP Regulations at 40 C.F.R. § 68.67(f), and Section 112(r)(7)(E) of the CAA, 42 U.S.C. § 7412(r)(7)(E).

Count 2: Failure to Perform RMP Compliance Audit and Correct Deficiencies

51. The allegations in paragraphs 1 through 50 are hereby realleged and incorporated herein by reference.

52. Under 40 C.F.R § 68.79(a), the owner or operator of a stationary source with a covered process subject to the RMP Regulations' Program 3 requirements must certify that it has evaluated compliance with these requirements at least every three years to verify that procedures and practices developed under the RMP Regulations are adequate and are being followed.

53. These compliances audits must be conducted by at least one person knowledgeable in the process. See 40 C.F.R. § 68.79(b).

54. A report of the audit's findings must be developed, and the owner or operator must promptly determine and document appropriate responses to each of the findings of the audit and document that the deficiencies have been corrected. See 40 C.F.R. § 68.79(c)-(d). The owner or operator must retain the two most recent compliance audit reports. See 40 C.F.R. § 68.79(e).

55. Respondent stated in its latest RMP, which was electronically filed on September 24, 2019, that it had most recently conducted a compliance audit for the Facility on September 16, 2018.

56. Respondent was required to develop a report of this audit's findings, determine and document responses, and document that all deficiencies were corrected. Further, Respondent was required to perform its next compliance audit for the Facility no later than on September 16, 2021. See 40 C.F.R. § 68.79(a), (c) and (d) (cited above).

57. In response to EPA inspector requests for the Facility's compliance audits, Respondent provided several documents dated in 2016 and 2018. The most recent of these documents is unsigned and undated, but it appears to have been filled out sometime during or after September 2018, as it references an OSHA PSM audit that was performed in September 2018. The unsigned document is entitled "U.S. Environmental Protection Agency Checklist for Risk Management Program Inspection or Audits at Program 3 Stationary Sources" (hereinafter, the "RMP Compliance Audit Checklist" or "Checklist").

58. Respondent's RMP Compliance Audit Checklist identified many deficiencies in the Facility's RMP program, including but not limited to: outdated operating procedures (Checklist, p. 9); inadequate training (Checklist, p. 10); lack of written procedures for maintaining process equipment, i.e., no written mechanical integrity plan (Checklist, p. 11); and lack of management system (Checklist, p.18). For most of the identified deficiencies, there are no descriptions of any responses taken or of the deficiencies being corrected.

59. In EPA's April 2022 Information Request, EPA asked that Respondent provide a detailed description of any remedial work taken in response to the four above-listed deficiencies identified in the RMP Compliance Audit Checklist at the Facility. Respondent provided no descriptions of any remedial work taken. Instead, Respondent provided two documents related to an OSHA PSM audit that was performed in September 2018, which recommended various remedial actions but which provided no information regarding whether any of the work was performed.

60. Respondent failed to update its September 2018 RMP compliance audit for the Facility within three years, i.e., by September 2021, as was required by 40 C.F.R § 68.79(a). Further, Respondent failed to document that the deficiencies identified in its 2018 RMP compliance audit were corrected, as required by 40 C.F.R. § 68.79(c)-(d).

61. To comply with the NOV/AO, Respondent submitted an updated RMP compliance audit to EPA on May 10, 2024.

62. Accordingly, from at least September 16, 2021, to May 10, 2024, Respondent has violated the compliance audit requirements of the RMP Regulations at 40 C.F.R. § 68.79 and Section 112(r)(7)(E) of the CAA, 42 U.S.C. § 7412(r)(7)(E).

Count 3: Failure to Comply with Mechanical Integrity Requirements for RMP Tanks

63. The allegations in paragraphs 1 through 62 are hereby realleged and incorporated herein by reference.

64. Pursuant to 40 C.F.R. § 68.73(b), the owner or operator of an RMP Program 3 covered process shall establish and implement written procedures to maintain the ongoing integrity of process equipment. Under 40 C.F.R § 68.73(a), the mechanical integrity provisions of 40 C.F.R. §§ 68.73(b)-(f) apply to, among other equipment, pressure vessels and storage tanks, piping systems (including piping components such as valves), relief and vent systems, emergency shutdown systems, and controls (including monitoring devices and sensors, alarms, and interlocks).

65. Respondent's RMP Compliance Audit Checklist, described above in Paragraphs 57-58, stated that the Facility had "no written plan" for maintaining the mechanical integrity of

its process equipment, as required by 40 C.F.R. § 68.73(b). The OSHA PSM audit conducted for the Facility in September 2018 similarly stated that a written mechanical integrity program did not exist for the Facility.

66. As alleged above in Paragraph 59, EPA's April 2022 Information Request specifically asks Respondent to describe any remedial work taken to address the Facility's lack of a written mechanical integrity plan as identified in the RMP Audit Checklist. Respondent provided no information regarding any such remedial work. Further, in response to earlier EPA inspector requests for written mechanical integrity documents, Respondent provided certain written materials but did not supply a complete written mechanical integrity program.

67. To comply with the NOV/AO, Respondent developed a written mechanical integrity program and submitted it to EPA on August 2, 2024.

68. Accordingly, from at least 2018 to August 2,2024, Respondent did not have a written mechanical integrity program for the covered process at the Facility, in violation of the RMP Regulations at 40 C.F.R. § 68.73(b), and Section 112(r)(7)(E) of the CAA, 42 U.S.C. § 7412(r)(7)(E).

69. Pursuant to § 68.73(d)(1)-(4), the owner or operator shall perform inspections and tests on process equipment, following recognized and generally accepted good engineering practices ("RAGAGEP"). The frequency of inspections and tests of process equipment must be consistent with applicable manufacturers' recommendations and good engineering practices, and more frequently if determined to be necessary by prior operating experience. Further, the owner or operator shall document each inspection and test that has been performed on process equipment, including a description and the results of the inspection or test.

70. Pursuant to § 68.73(e), the owner or operator shall correct deficiencies in equipment that are outside acceptable limits (defined by the process safety information in §68.65) before further use or in a safe and timely manner when necessary means are taken to assure safe operation. Recognized and generally accepted good engineering practices ("RAGAGEP") for the RMP tanks include, among other standards of care, NFPA Code 58, *the Liquid Petroleum Gas Code* ("NFPA 58").

71. General RAGAGEP for mechanical integrity testing and inspection for the Facility's four RMP Tanks and their piping include API Standard 510 - Pressure Vessel Inspection Code: Inservice Inspection, Rating, Repair, and Alteration (commonly cited as "API 510"), API Standard 570 - Piping Inspection Code: In-service Inspection, Rating, Repair, and Alteration of Piping Systems; and API Recommended Practice 574 (RP 574), Inspection Practices for Piping System Components. This RAGAGEP calls for periodic external and internal inspections of tanks and their piping to ensure continued tank integrity and fitness for use.

72. In 2018, Respondent hired a tank inspection company ("2018 Inspection Company") to inspect the outdoor RMP Tanks, other outdoor storage tanks, piping, and various indoor tanks in the Facility's Mixing Room. The 2018 Inspection Company produced a total of five inspection reports. The first two reports, dated February 28 and April 20, 2018, were for the RMP tanks. The third report, dated May 11, 2018, was for Mixing Room tanks. The fourth report, dated May 18, 2018, was for piping associated with the RMP Tanks. The last report, dated May 25, 2018, was for other piping and the "acetone and heptane" tanks.

73. The 2018 Inspection Company inspected the RMP Tanks pursuant to various industry standards, including API 510. The 2018 Inspection Company's reports stated, among other things, that internal inspections were necessary to assess the two 30,000-gallon RMP Tanks, and that internal inspections were recommended for the two 6,000-gallon RMP Tanks, as they not been internally inspected since 1985. The report also recommended that, because certain information was not available regarding the 30,000-gallon tanks, these two tanks be taken out of service.

74. EPA's April 2022 Information Request asked if Respondent performed any repair, maintenance, or other remedial work as a result of the 2018 Inspection Company report, and further asked if any subsequent tank or piping inspections at the Facility had been performed. In its June 2022 responses, Respondent replied that the Facility "did not agree with the findings from the [company's] report" and that the Facility "did not follow through with any of the recommendations that were supplied." Respondent also stated that new tank inspection company (hereinafter, the "2022 Inspection Company") had been hired to perform inspections in May 2022, and provided a copy of a "cover letter" dated May 27, 2022, from this company to Respondent.

75. In this May 2022 cover letter, the 2022 Inspection Company stated that it inspected the Facility's RMP Tanks pursuant to API 510 and other industry standards. Based on additional information that was not reviewed by the 2018 Inspection Company, the 2022 Inspection Company concluded that the two 30,000-gallon tanks were safe for continued service.

76. Subsequently, Respondent supplied EPA with individual tank inspection reports produced by the 2022 Inspection Company. The four RMP Tank inspection reports – each of which are identified as an "API 510 Pressure Vessel Inspection Report" – were dated on May 11 or May 12, 2022. For each of the four RMP Tanks, the inspection reports recommended that an internal inspection (or a risk-based inspection) be performed "to remain in code compliance." The reports also recommended that nonfunctioning pressure gauges be replaced on two of the tanks, and that all four tanks be re-coated to resist corrosion. RAGAGEP would require maintenance of non-functional equipment pressure gauges and protection of tanks from corrosion. See, e.g. NFPA 58 (2020), NFPA 58 § 6.15.3.1.8 (requiring paint and coating on

containers to be maintained); and NFPA 58 (2020) § 5.9.8.7 (requiring every ASME storage container of more than 2000 gallon water capacity to be provided with a pressure gauge).

77. API 510 at Section 6.5.1.1 states that, unless justified by an RBI [risk based inspection] assessment, internal inspections of pressurized tanks shall be performed at no less than ten-year intervals.

78. To EPA's knowledge, Respondent's response to the 2018 Inspection Company's report regarding the RMP Tanks came after EPA started its new investigation of the Facility in 2021. As described above, Respondent hired a new inspection company in 2022 that addressed certain issues raised in the 2018 Inspection Company's report. The 2022 Inspection Company did not perform internal inspections of the RMP Tanks (as previously recommended by the 2018 Inspection Company), but stated in its inspection reports that internal inspections were required for the RMP tanks for API 510 code compliance.

79. To EPA's knowledge, prior to the issuance of the November 2023 NOV/AO, Respondent took no action in response to the 2022 Inspection Company's cover letter or RMP tank inspection reports and had not performed internal inspections of any of the RMP Tanks for a period of greater than 10 years.

80. Respondent has since conducted the required inspections.

81. Accordingly, from at least September 16, 2018, to the present, Respondent's failure to timely conduct internal inspections of the RMP Tanks pursuant to API 510 violated 40 C.F.R. §§ 68.73(d)(2) and (3) and (e), and Section 112(r)(7)(E) of the CAA, 42 U.S.C. § 7412(r)(7)(E).

Count 4: Failure to Comply with Training Requirements

82. The allegations in paragraphs 1 through 81 hereby realleged and incorporated herein by reference.

83. Pursuant to 40 C.F.R. § 68.71(a), each employee involved in an operating process, and each employee before being involved in operating a newly assigned process, must be trained in an overview of the process and in the operating procedures of that process as specified in 40 C.F.R. § 68.69. This training must emphasize the specific safety and health hazards, emergency operations, and safe work practices that apply to the employee's job practices.

84. Alternatively, to meet the requirements of 40 C.F.R. § 68.71, an owner or operator may certify in writing that employees already involved in an operating process have

the required knowledge, skills, and abilities to safely carry out the duties and responsibilities specified in the operating procedures.

85. Additionally, pursuant to § 68.71(b), employees must be provided refresher training at least every three years.

86. The owner or operator must ascertain that the employees have received and understood the training, and prepare records containing the identities of each trained employee, the date of the training, and documenting the means used to verify that the employees understood the training (§ 68.71(c)).

87. Respondent operates several processes that require training pursuant to 40 C.F.R. § 68.71, including Gas Room operations, and tank and railcar loading and unloading procedures.

88. In EPA's July 2021 Inspection Notice and Information Request, EPA asked for all training documents for each employee. EPA also requested training information during EPA's inspection. EPA also specifically requested the list of operators and the training records for the propellent injection system in the e-mail follow-up after the August 4, 2021 inspection. Additionally, in EPA's April 2022 Information Request, EPA asked specifically for a list of all Facility employees whose duties include working in the Facility's Gas room or performing tank truck or railcar unloading from 2017 to present. EPA also asked for a list of training records for any such employees between 2017 to 2021, including competency tests, training sign-in sheets, on-the-job training forms, and training completion forms.

89. Respondent provided a list of employees who work in the gas room; however, Respondent did not provide a list of employees whose responsibilities included gas room work each year.

90. Respondent provided a list of employees whose duties included Gas Room work, which included nine individuals. This list was dated January 27, 2022—after EPA's inspection in August 2021. Respondent provided the on-the-job training forms for only eight of these nine listed Gas Room employees. These trainings, which the forms indicate took place over the course of 2021 and into January 2022, were also signed on January 27, 2022.

91. Respondent did not provide any training documentation for the Gas Room employees that included the means used to verify that the employees understood the training, such as competency tests.

92. Respondent failed to produce any records of initial trainings for new employees who were assigned to operate RMP covered processes in the Facility's Gas Room, where RMP chemicals are used as propellants, from before 2021. Respondent also failed to provide

documentation certifying in writing that the employees who operated RMP covered processes had the required knowledge and skills to safely operate these processes prior to 2021.

93. Respondent therefore did not meet the requirements of 40 C.F.R. § 68.71(a) or 40 C.F.R. § 68.71(c).

94. In its September 2021 response submission, Respondent provided tank and railcar unloading procedures competency tests for three employees, who completed the trainings on May 16, 2017, May 10, 2017, and May 8, 2017. In response to the April 2022 Information Request, Respondent also provided competency tests for one of the tank and railcar unloading employees for the years 2018, 2019, 2020, and 2021.

95. Respondent provided no response to the April 2022 Information Request for a list of employees whose duties included tank and railcar unloading work.

96. During EPA's 2021 inspection, Respondent informed EPA inspectors that there were two trained railcar and truck unloading operators at the Facility. However, only one of the railcar and truck unloading employees was re-trained at least every three years as required by 40 C.F.R. § 68.71(b). If either of the two tank and railcar unloading employees, who had been trained in 2017, has continued their employment and duties in tank and railcar unloading, they have not been re-trained at least every three years as required by 40 C.F.R. § 68.71(b). Or, if they have been re-trained, then Respondent has failed to prepare documentation of their refresher training as required by 40 C.F.R. § 68.71(c). If an entirely new employee is performing the railcar and truck unloading duties, then Respondent failed to properly trained and document the means of verifying that the employee understood the training, as required by 40 C.F.R. § 68.71(a) and (c).

97. Accordingly, from at July 1, 2019, to present, Respondent's failure to comply with RMP training requirements violated 40 C.F.R. §§ 68.71(a)–(c)., and Section 112(r)(7)(E) of the CAA, 42 U.S.C. § 7412(r)(7)(E).

Count 5: Failure to Establish an Emergency Planning and Response Action Plan

98. The allegations in paragraphs 1 through 97 are hereby realleged and incorporated herein by reference.

99. Pursuant to 40 C.F.R. § 68.12(d), the owner or operator of a stationary source with a process subject to Program 3, must, among other things, coordinate response actions with local emergency planning and response agencies, as provided in 40 C.F.R. § 68.93, and develop and implement an emergency response program as provided in §§ 68.90 through 68.96. Owners or operators of stationary sources whose employees will not respond to accidental releases of a flammable substance need not develop a full emergency response

program that meets the requirements of § 68.95 if (a) the source has coordinated response actions with the local fire department; (b) appropriate mechanisms are in place to notify emergency responders when there is need for a response; and (c) the owner or operator performs the annual emergency response coordination activities and exercises required under §§ 68.93 and 68.96(a). Under § 68.93(b), the annual coordination shall include, among other things, providing to the local emergency planning and response organizations: the stationary source's emergency response plan if one exists; emergency action plan; and updated emergency contact information.

100. Under § 68.95, owners or operators who are responding themselves to releases or who have failed to meet the requirements of the exemption in § 68.90(b) for non-responding sources, shall develop and implement an emergency response program for the purpose of protecting public health and the environment. These programs are required to include several elements, including an emergency response plan. (§ 68.95(a)(1)). The emergency response plan must contain procedures for informing the public and appropriate emergency response agencies about accidental releases, documentation of proper first-aid and emergency medical treatment necessary to treat accidental human exposures, and procedures and measures for emergency response after an accidental release of a regulated substance. 40 C.F.R. § 68.65(a)(i)–(iii).

101. In EPA's July 2021 Information Request, EPA asked Respondent to provide the current Emergency Plans and documentation of coordination with local emergency planning and response organizations.

102. Respondent did not provide documentation of annual emergency response coordination, as required by 40 C.F.R. § 68.90(b). Thus, because Respondent failed to meet the requirements of the exemption in 40 C.F.R. § 68.90(b), Respondent was required to develop and implement an emergency response program in accordance with 40 C.F.R. § 68.95.

103. Respondent submitted an Emergency Management Plan/Hazardous Waste Contingency Plan, which was last updated on October 9, 2019. This plan directs trained plant personnel to immediately commence clean up if deemed incipient stage in the event that an emergency involves the release of a hazardous material.

104. However, the plan omits any instruction on emergency actions in the event that there is an accidental release of a gas that is part of the Facility's RMP regulated processes.

105. As per 40 C.F.R. § 68.95(a)(1)(iii), the emergency response plan must identify procedures and measures for emergency response after an accidental release of a regulated substance. The Facility uses isobutane, butane, propane, and DME, all regulated chemicals, in its RMP processes. Accordingly, the emergency response plan is required to address the

emergency procedures and measures in the event of an accidental release of any of these chemicals.

106. Respondent violated 40 C.F.R. § 68.95(a)(1) for failing to identify the procedures and measures for emergency response after the accidental release of the RMP chemicals used in its process.

107. Accordingly, from at least October 9, 2019, to present, Respondent violated 40 C.F.R. §§ 68.90, 68.93, and 68.95(a)(1), and Section 112(r)(7)(E) of the CAA, 42 U.S.C. § 7412(r)(7)(E).

Count 6: Failure to Annually Recertify Written Operating Procedures and Failure to Develop Written Operating Procedures for Flammable Gases

108. The allegations in paragraphs 1 through 107 hereby realleged and incorporated herein by reference.

109. Pursuant to 40 C.F.R. § 68.69(a), the owner or operator shall develop and implement written operating procedures that provide clear instructions for safely conducting activities involved in each covered process consistent with the process safety information. Minimum elements of the standard operating procedures include steps for each operating phase (including, for example, steps for normal operations, emergency shutdown, and emergency operations, operating limits, safety and health considerations, safety systems and their functions. The operating procedures must be readily accessible (§ 68.69(b)). They must also be regularly reviewed to ensure that they reflect current operating practice, including certifying annually that they are current and accurate (§ 68.69(c)). Also, pursuant to § 68.69(d), the owner or operator shall develop and implement safe work practices to provide for the control of hazards during operations such as lockout/tagout; confined space entry; opening process equipment or piping; and control over the entrance into a stationary source by maintenance, contractor, laboratory, or other support personnel. These safe working practices shall apply to employees and contractor employees. Pursuant to § 68.200, records of compliance with § 68.69 must be kept for five years.

110. At the August 4, 2021, inspection, the EPA inspection team requested all operating procedures for the covered processes.

111. Following the inspection, EPA requested several additional documents from Respondent, including the most recent version of all standard operating procedures (SOPs).

112. In the April 2022 Information Request, EPA asked for copies of the SOPs that include the monitoring of the presence of flammable gasses indoors or outdoors at the facility other than in the Gas Room. EPA also asked whether these SOPs are certified annually and to

describe the recertification process and provide the recertification documents dated 2018 to the present. Additionally, EPA requested a list of the employees or entities that perform the recertifications.

113. At the inspection, Respondent provided several procedures for operating and maintaining the bulk propellant and delivery systems, including for:

i. the Lira system;
ii. the Fenwal Suppression System;
iii. safely performing maintenance activities on piping and valves associated with typical maintenance activities;
iv. safely performing maintenance activities associated with pressure relief valve (PRV) replacement;
v. safely performing maintenance activities on storage tanks to ensure safe operations;
vi. safely performing maintenance activities on pumps and blowers associated with typical maintenance activities;
vii. safely offloading bulk aerosol propellants from a tanker to a Shield tank in the bulk storage area;
viii. safely shutting down all valves, piping, pumps and switches associated with the bulk storage of aerosol propellants;
ix. ensuring that contemplated changes to a covered process are thoroughly evaluated to fully assess their impact on employee safety and health, and;
x. safely operating all valves, piping, pumps, and switches associated with the bulk storage of aerosol propellants during process startup and shutdown.

114. Additionally, Respondent submitted SOPs dated 2018 for performing a Lockout/ Tagout procedure for isolating hazardous energy sources on equipment being installed, serviced, or maintained at the Facility.

115. After the inspection, in September 2021, Respondent submitted its SOP for storing products containing aerosol propellants in the warehouse. This SOP was dated 2014.

116. Respondent submitted several other SOPs dated 2018, including an Isobutane and Propane Centrifugal Pump Maintenance SOP, a Propane and Dimethyl Ether Regenerative Blower Maintenance SOP, and a LIRA Analyzer Calibration SOP.

117. In accordance with 40 C.F.R. § 68.69(c), Respondent was required to annually certify these SOPs for currentness and accurateness. The most recent SOP that Respondent produced was dated 2018.

118. Accordingly, from at least 2018 to April 2022, Respondent violated 40 C.F.R. § 68.69(c) for failing to annually certify its SOPs.

119. Further, its response to the April 2022 Information Request, Respondent stated that the Facility does not have any standard operating procedures for the monitoring of flammable gases outside of the Gas Room. None of the operating procedures that Respondent previously provided included any mention of the presence or use of fixed or portable gas detectors used in the process apart from those processes located in the Gas Room.

120. For example, the piping and valve maintenance SOP and the pressure vessel and storage tank maintenance SOP do not identify gas detection safety systems that should be in place during these procedures. The only safety procedures referenced are the Lockout/Tagout SOP; while this SOP does reference the isolation of energy and the dissipation of hazardous energy, it does not specifically identify the steps to accomplish this, and does not include monitoring the atmosphere for the presence of flammable gases.

121. 40 C.F.R. § 68.69(a)(3)(ii) requires that the SOPs must include precautions necessary to prevent exposure, including engineering controls, administrative controls, and personal protective equipment.

122. NFPA 58 (2020), which applies to liquified petroleum gases such as propane and butane, states in Section 15.2.1.2 (formerly 14.2.1.2) that "operating procedures shall include operator actions to be taken if flammable concentrations of flammable liquids or gases are detected in the facility using fixed detectors, operating malfunctions, or the human senses."

123. To safely conduct activities in accordance with 40 C.F.R. § 68.69(a)(ii), identifying the precautions necessary to prevent exposure, several of Respondent's operating procedures, specifically the procedures that relate to the RMP process in the tank farm—including loading, unloading, and maintenance—should have included precautions to prevent exposure to flammable gasses, including engineering and administrative controls, especially to monitor for the presence of flammable gasses at the bulk storage tanks or piping systems when conducting line opening on a system.

124. Thus, Respondent violated 40 C.F.R. § 68.69(a)(3)(ii) by failing to include in its SOPs precautions for the monitoring of flammable gases in processes outside of the Gas Room.

125. Further, in accordance with 40 C.F.R. § 68.69(a)(3)(i), SOPs are required to identify the properties of, and hazards presented by, the chemicals used in the process.

126. The SOPs submitted by Respondent failed to include discussion of the properties of and hazards presented by the chemicals used in the process.

127. Accordingly, Respondent violated 40 C.F.R. § 68.69(a)(3)(i) by failing to include information about the properties of and hazards presented by the chemicals used in the process.

128. Lastly, the SOPs provided for the gas process fail to identify personal protective equipment as a requirement in flammable areas. However, the EPA inspection team and Respondent's Facility personnel were required to wear fire retardant/resistant clothing and personal protective equipment as a condition to enter the bulk tank area and the gas room.

129. In accordance with 40 C.F.R. § 68.69(a)(3)(ii), Respondent was required to identify the precautions necessary to prevent exposure, including personal protective equipment.

130. Thus, by failing to identify the personal protective equipment required in flammable areas, Respondent violated 40 C.F.R. § 68.69(a)(3)(ii).

131. Accordingly, from at least 2018 to present, Respondent failed to annually certify SOPs and include precautions in SOPs necessary to prevent exposure, in violation of 40 C.F.R. § 68.69 and Section 112(r)(7)(E) of the CAA, 42 U.S.C. § 7412(r)(7)(E).

F. CONSENT AGREEMENT TERMS

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

a. admits that EPA has jurisdiction over the subject matter alleged in this CAFO;
b. neither admits nor denies the specific factual allegations contained in this CAFO;
c. consents to the assessment of a civil penalty as stated below;
d. consents to the issuance of any specified compliance or corrective action order;
e. consents to the conditions specified in this CAFO;
f. consents to any stated permit action;
g. waives any right to contest the alleged violations of law set forth in Sections E and F of this CAFO; and
h. waives its rights to appeal the Final Order accompanying this Consent Agreement.

133. For the purpose of this proceeding, Respondent further:

a. agrees that this CAFO states a claim upon which relief may be granted against Respondent;
b. acknowledges that this CAFO constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement actions;
c. waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CAFO, including any right of judicial review under Section 307(b)(1) of the CAA, 42 U.S.C. § 7607(b)(1);
d. consents to personal jurisdiction in any action to enforce this CAFO in the United States District Court for the District of Massachusetts; and
e. waives any rights it may possess at law or in equity to challenge the authority of EPA to bring a civil action in a United States District Court to compel compliance with the CAFO, and to seek an additional penalty for such noncompliance, and agrees that federal law shall govern in any such civil action.

134. Respondent certifies that it has corrected the violations alleged in this CAFO, including by complying with the NOV/AO and taking the additional compliance measures specified in Appendix 1, and is currently in compliance the RMP Rules.

135. Penalty Payment:

a. Respondent agrees to pay a civil penalty of $219,500 ("Assessed Penalty") within thirty (30) calendar days of the Effective Date of the CAFO.
b. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of methods, provided on the EPA website https://www.epa.gov/financial/makepayment. For additional instructions see: http://www.epa.gov/financial/additional-instructions-making-payments-epa.
c. When making a payment, Respondents shall:
   1. Identify every payment with "*In the Matter of Shield Packaging, Co., Inc.; Docket No. CAA-01-2024-0040*"; and
   2. Within 24 hours of payment of any payment, serve proof of such payment to the following via email:

Megan Edwards
Enforcement Counsel
U.S. Environmental Protection Agency, Region 1
edwards.megan@epa.gov

Wanda I. Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 1
Santiago.Wanda@epa.gov
and
R1_Hearing_Clerk_Filings@epa.gov

and

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

"Proof of payment" means, as applicable, a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to the EPA requirements, in the amount due, and identified with "*In the Matter of Shield Packaging, Co., Inc.; Docket No. CAA-01-2024-0040.*"

d. Interest, Charges, and Penalties on Late Payments. Pursuant to 42 U.S.C. § 7413(d)(5), 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay the full amount of the Assessed Penalty per this CAFO, the entire unpaid balance of the Assessed Penalty and all accrued interest shall become immediately due and owing and EPA is authorized to recover the following amounts.
e. Interest. Interest begins to accrue from the Effective Date. If the Assessed Penalty is paid in full within thirty (30) days, accrued interest is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. Per 42 U.S.C. § 7524(c)(6), interest will be assessed pursuant to 26 U.S.C. § 6621(a)(2), which is the IRS standard underpayment rate and is equal to the federal short-term rate plus 3 percentage points.
f. Handling Charges. The United States' enforcement expenses including, but not limited to, attorneys' fees and costs of handling collection.
g. Late Payment Penalty. A ten percent (10%) quarterly non-payment penalty.

136. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondents fail to timely pay any portion of the Assessed Penalty per this CAFO, EPA may take additional actions. Such actions EPA may take include, but are not limited to, the following.

a. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14.
b. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.
c. Suspend or revoke Respondent's licenses or other privileges or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, per 40 C.F.R. § 13.17.
d. Request that the Attorney General bring a civil action in the appropriate district court to enforce the Final Order and recover the full remaining balance of the Assessed Penalty, in addition to interest and the amounts described above, pursuant to 42 U.S.C. § 7413(d)(5). In any such action, the validity, amount, and appropriateness of the Assessed Penalty and Final Order shall not be subject to review.

137. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.

138. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Agreement shall not be deductible for purposes of federal taxes.

139. W-9 Form

a. 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 each Respondent herein agrees, that:

b. 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;
c. 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;
d. Respondent shall email its completed Form W-9 to EPA's Cincinnati Finance Center at chalifoux.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
e. In the event that Respondent has certified in its completed IRS Form W-9 that it does not yet have a TIN but has applied for a TIN, Respondent shall provide EPA's Cincinnati Finance Center with Respondent's TIN, via email, within five (5) days of Respondent's receipt of a TIN issued by the IRS.

G. ADDITIONAL PROVISIONS

140. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of the Parties and the approval of the Regional Judicial Officer.

141. By signing this CAFO, Respondent acknowledges that this CAFO will be available to the public and agrees that this CAFO does not contain any confidential business information or personally identifiable information.

142. By signing this CAFO, each undersigned representative of the Parties certifies that he or she is fully authorized to execute and enter into the terms and conditions of this CAFO and has the legal capacity to bind the party that he or she represents. The Parties consent to the use of digital signatures on this CAFO, and Respondent further consents to receipt of service of the CAFO, once filed, by electronic mail at mconnolly@nutter.com, tjohnston@shieldpackaging.com, and sbates@shieldpackaging.com. Respondent understands that this e-mail address may be made public when the CAFO and Certificate of Service are filed and uploaded to a searchable database.

143. By signing this CAFO, the Parties agree that each party's obligations under this CAFO and EPA's compromise of statutory maximum penalties constitute sufficient consideration for the other party's obligations.

144. By signing this CAFO, Respondent certifies that the information it has supplied concerning this matter was at the time of submission true, accurate, and complete for each such submission, response, and statement. Respondent acknowledges that there are

significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.

H. EFFECT OF CONSENT AGREEMENT AND ATTACHED FINAL ORDER

145. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in Section E above.

146. Penalties paid pursuant to this CAFO shall not be deductible for purposes of federal taxes. For purposes of the identification requirement of Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), performance of the conditions in Appendix 1 is restitution or required to come into compliance with the law.

147. This CAFO constitutes the entire agreement and understanding of the Parties and supersedes any prior agreements or understandings, whether written or oral, among the Parties with respect to the subject matter hereof.

148. Any violation of this CAFO may result in a civil judicial action for an injunction or civil penalties as provided in Section 113(b)(2) of the CAA, 42 U.S.C. § 7413(b)(2), as well as criminal sanctions as provided in Section 113(c) of the CAA, 42 U.S.C. § 7413(c). EPA may use any information submitted by Respondent pursuant to this CAFO in an administrative, civil judicial, or criminal action.

149. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the CAA and other federal, state, or local laws or statutes, and nothing in this CAFO shall restrict EPA's authority to seek compliance with any applicable laws or regulations, or be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.

150. This CAFO in no way relieves Respondent or its employees of any criminal liability, and EPA reserves all its other criminal and civil enforcement authorities, including the authority to seek injunctive relief and the authority to undertake any action against Respondent in response to conditions which may present an imminent and substantial endangerment to the public health, welfare, or the environment.

151. Except as qualified by Paragraph 135, each party shall bear its own costs and fees in this proceeding including attorney's fees. Respondent specifically waives any right to recover such costs from EPA pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504, or other applicable laws.

I. EFFECTIVE DATE

152. Respondent and Complainant agree to issuance of the attached Final Order. This CAFO shall become effective after execution of the Final Order by the Regional Judicial Officer on the date of filing with the Regional Hearing Clerk.

In the Matter of Shield Packaging Co., Inc., Docket No. CAA-01-2024-0040
Consent Agreement and Final Order

FOR RESPONDENT:

Todd A. Johnston — Date 9/13/24
President
Shield Packaging Co., Inc.

Ryan Simpson — Date 9-12-24
Dudley Facility General Manager
Shield Packaging Co., Inc.

In the Matter of Shield Packaging Co., Inc., Docket No. CAA-01-2024-0040
Consent Agreement and Final Order

FOR COMPLAINANT:

JAMES CHOW Digitally signed by JAMES CHOW
Date: 2024.09.16 16:56:23 -04'00'

_____ _____

James Chow, Director Date
Enforcement and Compliance Assurance Division
EPA Region 1

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

In the Matter of: Shield Packaging Co., Inc. 50 Oxford Avenue Dudley, Massachusetts 01571, Respondent. Proceeding under Section 113(d) of the Clean Air Act	Docket No. CAA-01-2024-0040 **CONSENT AGREEMENT AND FINAL ORDER**

FINAL ORDER

Pursuant to 40 C.F.R. §§ 22.18(b) and (c) of EPA's Consolidated Rules and Sections 113(d)(1) and (d)(2)(B) of the CAA, 42 U.S.C. §§ 7413(d)(1) and (d)(2)(B), the attached Consent Agreement resolving this matter is incorporated by reference into this Final Order and is hereby ratified.

Respondent Shield Packaging is ORDERED to comply with all terms of the Consent Agreement, which shall become effective on the date it is filed with the Regional Hearing Clerk.

SO ORDERED:

LEANN JENSEN Digitally signed by LEANN JENSEN Date: 2024.09.17 14:26:14 -04'00'

LeAnn Jensen
Regional Judicial Officer
EPA Region 1

Date

APPENDIX 1: COMPLIANCE REQUIREMENTS

A. Compliance requirements for Counts 1-3 are being addressed in the NOV/AO.

B. Training Requirements

1. Respondent shall have training documentation for all employees whose duties include work in the Facility's gas room. Such documentation must include the dates upon which the employees took the training, and the means used to verify that the employees understood the training, such as competency tests.

2. Respondent shall have training documentation for all employees whose duties include railcar and tank unloading. Such documentation must include the dates upon which the employees took the training, including the initial training when the employees' duties first include railcar and tank unloading, and the means used to verify that the employees understood the training, such as competency tests.

3. Respondent must ensure that all employees whose duties include work in the Facility's gas room or include tank and railcar unloading are retrained every three years as required by 40 C.F.R. § 68.71(b) and to prepare documentation of this training as per 40 C.F.R. § 68.71(c).

C. Emergency Planning and Response Action Plan

4. Respondent must update the Emergency Management Plan/Hazardous Waste Contingency Plan to identify the procedures and measures for emergency response after the accidental release of the RMP chemicals used in its process. Alternatively, Respondent can comply with the requirements for non-responding facilities in 40 C.F.R. § 68.90(b).

D. Written Operating Procedures for Flammable Gases

5. Respondent must update and recertify its SOPs to ensure they are current and accurate.

6. Respondent must update its SOPs that relate to Respondent's RMP process to include precautions necessary to prevent exposure, as per 40 C.F.R. § 68.69(a)(3)(ii), and to include actions to be taken if flammable concentrations of flammable liquids or gases are detected in the facility using fixed detectors, operating malfunctions, or the human senses, as per NFPA 58 Section 15.2.1.2. Examples of the SOPs that should include gas detection precautions are the loading, unloading, and maintenance SOPs.

7. Respondent must update its SOPs to identify the properties of, and hazards presented by, the chemicals used in the process, as per 40 C.F.R. § 68.69(a)(3)(i).

8. Respondent must update its SOPs to identify the precautions necessary to prevent exposure, including personal protective equipment, as per 40 C.F.R. § 68.69(a)(3)(ii).