



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

SEP 21 2018

Mr. Mike Ware
Executive Vice President
and Chief Value Chain Officer
Zep Incorporated
3330 Cumberland Blvd., Suite 700
Atlanta, Georgia 30339

SUBJ: Zep Incorporated
EPA ID No.: GAD003267192
Consent Agreement and Final Order
Docket No.: RCRA-04-2018-4014(b)

Dear Mr. Ware:

Enclosed, please find a copy of the executed Consent Agreement and Final Order (CA/FO) as filed with the Regional Hearing Clerk in the above-referenced matter. Please note that payment of the civil penalty is due within thirty (30) days of the effective date of the CA/FO, which is the date the CA/FO is filed with the Regional Hearing Clerk. The timing of all other obligations required by the CA/FO also begins on the effective date of the CA/FO. A copy of the check, wire transfer or online payment should be submitted to the following people:

Patricia Bullock
Regional Hearing Clerk
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

and to:

Javier García, Environmental Engineer
Hazardous Waste Section
Enforcement and Compliance Branch
Resource Conservation and Restoration Division
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

Thank you for your assistance in resolving this matter. If you have any questions, please feel free to contact me at 404-562-8590 or by email at lamberth.larry@epa.gov.

Sincerely,



For

Larry L. Lamberth
Chief, Enforcement and Compliance Branch
Resource Conservation and Restoration Division

Enclosures

Thank you for your assistance in resolving this matter. If you have any questions, please feel free to contact me at 404-562-8590 or by email at lamberth.larry@epa.gov.

Sincerely,



For Larry L. Lamberth
Chief, Enforcement and Compliance Branch
Resource Conservation and Restoration Division

Enclosures

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)	DOCKET NO.: RCRA-04-2018-4014(b)
)	
Zep Incorporated)	
1310 Seaboard Industrial Boulevard)	Proceeding Under Section 3008(a) of the
Atlanta, Georgia)	Resource Conservation and Recovery Act,
EPA ID No.: GAD003267192)	42 U.S.C. § 6928(a)
Respondent)	

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RECEIVED
OFFICE OF THE
GENERAL COUNSEL

CONSENT AGREEMENT

I. NATURE OF THE ACTION

1. This is a civil administrative enforcement action, pursuant to Section 3008(a) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a), ordering compliance with the requirements of the Georgia Hazardous Waste Management Act (GHWMA), Ga. Code Ann. §§ 12-8-60 et seq. [Subtitle C of RCRA, 42 U.S.C. §§ 6921-6939g], and the regulations promulgated pursuant thereto and set forth at Georgia Hazardous Waste Management Rules (GHWMR), Ga. Comp. R. and Regs. 391-3-11-.01 to 391-3-11-.18 [Title 40 of the Code of Federal Regulations (C.F.R.), Parts 260 through 270, 273, & 279]. This action seeks injunctive relief and the imposition of civil penalties pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for alleged violations of Section 12-8-66 of the GHWMA, Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925] and the GHWMR, Ga. Comp. R. and Regs. 391-3-11-.01 to 391-3-11-.18 [40 C.F.R. Parts 260 through 270, 273, & 279].
2. The *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation Termination or Suspension of Permits*, which govern this action and are promulgated at 40 C.F.R. Part 22, provide that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order (CA/FO). See, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).
3. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to settle this action. Accordingly, before any testimony has been taken upon the pleadings and without any admission of violation or adjudication of any issue of fact or law, and in accordance with 40 C.F.R. § 22.13(b), Complainant and Respondent have agreed to the execution of this CA/FO, and Respondent hereby agrees to comply with the terms of this CAFO.

II. THE PARTIES

4. Complainant is the Chief, Enforcement and Compliance Branch, Resource Conservation and Restoration Division, United States Environmental Protection Agency (EPA) Region 4. Complainant is authorized to issue the instant CA/FO pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and applicable delegations of authority.
5. Respondent is Zep Incorporated, a corporation incorporated under the laws of the State of Delaware and doing business in the State of Georgia. Respondent is the former owner and operator of a manufacturing facility located at 1310 Seaboard Industrial Boulevard, Atlanta, Georgia (the Facility). However, Respondent was the owner and operator of the Facility at all times relevant to this CA/FO.

III. PRELIMINARY STATEMENTS

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the State of Georgia (State) has received final authorization to carry out a hazardous waste program in lieu of the federal program set forth in RCRA. The requirements of the authorized State program are found at Sections 12-8-60 to 12-8-83 of the GHWMA, Ga. Code Ann. § 12-8-60 *et seq.*, and at Ga. Comp. R. and Regs. 391-3-11-.01 to 391-3-11-.18.
7. Pursuant to Section 3006(g) of RCRA, 42 U.S.C. § 6926(g), the requirements established by the Hazardous and Solid Waste Amendments of 1984 (HSWA), Pub. L. 98-616, are immediately effective in all states regardless of their authorization status and are implemented by the EPA until a state is granted final authorization with respect to those requirements. The State has received final authorization for certain portions of HSWA, including those recited herein.
8. Although the EPA has granted the State authority to enforce its own hazardous waste program, the EPA retains jurisdiction and authority to initiate an independent enforcement action pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2). This authority is exercised by the EPA in the manner set forth in the Memorandum of Agreement between the EPA and the State.
9. As the State's authorized hazardous waste program operates in lieu of the federal RCRA program, the citations for the violations alleged herein will be to the authorized State program; however, for ease of reference, the federal citations will follow in brackets.
10. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), Complainant has given notice of this action to the State before issuance of this CA/FO.
11. Section 12-8-64(1)(A) of the GHWMA, Ga. Code Ann. § 12-8-64(1)(A) [Section 3002(a) of RCRA, 42 U.S.C. § 6922(a)], requires the promulgation of standards applicable to generators of hazardous waste. The implementing regulations for these standards are found Ga. Comp. R. and Regs. 391-3-11.08(1) [40 C.F.R. Part 262 (2016)].

12. Section 12-8-66 of the GHWMA, Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], sets forth the requirement that a facility treating, storing, or disposing of hazardous waste must have a permit or interim status. The implementing regulations for this requirement are found at Ga. Comp. R. and Regs. 391-3-11-.10(2) (permitted) and Ga. Comp. R. and Regs. 3913-11-.10(1) (interim status)] [40 C.F.R. Parts 264 (permitted) and 265 (interim status)].
13. Pursuant to Ga. Comp. R. and Regs. 391-3-11.07(1) [40 C.F.R. § 261.2], a “solid waste” is any discarded material that is not otherwise excluded from the regulations. A discarded material includes any material that is abandoned by being disposed of, or accumulated, and/or stored in lieu of being disposed.
14. Pursuant to Ga. Comp. R. and Regs. 391-3-11.07(1) [40 C.F.R. § 261.3], a solid waste is a “hazardous waste” if it meets any of the criteria set forth in Ga. Comp. R. and Regs. 391-3-11.07(1) [40 C.F.R. § 261.3(a)(2)] and is not otherwise excluded from regulation as a hazardous waste by Ga. Comp. R. and Regs. 391-3-11.07(1) [40 C.F.R. § 261.4(b)].
15. Pursuant to Ga. Comp. R. and Regs. 391-3-11.07(1) [40 C.F.R. §§ 261.3(a)(2)(i) and 261.20], solid wastes that exhibit any of the characteristics identified in Ga. Comp. R. and Regs. 391-311-.07(1) [40 C.F.R. §§ 261.21-24] are characteristic hazardous waste and are provided with the EPA Hazardous Waste Numbers D001 through D043.
 - i. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. §§ 261.20 and 261.21], a solid waste that exhibits the characteristic of ignitability is a hazardous waste and is identified with the EPA Hazardous Waste Number D001.
 - ii. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. §§ 261.20 and 261.22], a solid waste that exhibits the characteristic of corrosivity is a hazardous waste and is identified with the EPA Hazardous Waste Number D002.
 - iii. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. §§ 261.20 and 261.23], a solid waste that exhibits the characteristic of reactivity is a hazardous waste and is identified with the EPA Hazardous Waste Number D003.
 - iv. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. §§ 261.20 and 261.24], a solid waste that exhibits the characteristic of toxicity is a hazardous waste and is associated with the toxic contaminant causing it to be hazardous.
 - v. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.24] a solid waste that exhibits the characteristic of toxicity for barium, chromium, mercury, benzene, chlorobenzene, chloroform, cresol, 1,1-dichloroethylene, 2,4-dinitrotoluene, methyl ethyl ketone, tetrachloroethylene and trichloroethylene are identified with the EPA Hazardous Waste Numbers D005, D007, D009, D018, D021, D022, D026, D029, D030, D035, D039 and D040, respectively.
16. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. §§ 261.3(a)(2)(ii) and 261.30], a solid waste is a listed hazardous waste if it is listed in Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. Part 261, Subpart D]. Listed hazardous wastes include F-listed wastes from nonspecific sources identified in Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.31(a)] with EPA Hazardous Waste Numbers F001 through F039.

17. Listed hazardous wastes in Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.31(a)] include the spent solvents identified with the EPA hazardous waste codes F002, F003 and F005.
18. Pursuant to Ga. Comp. R. and Regs. 391-3-11.02(1) [40 C.F.R. § 260.10], a “generator” is defined as “any person, by site, whose act or process produces hazardous waste identified or listed in [40 C.F.R. Part 261], or whose act first causes a hazardous waste to become subject to regulation.”
19. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.02(1) [40 C.F.R. § 260.10], a “facility” includes “all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste.”
20. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.02(1) [40 C.F.R. § 260.10], a “person” includes a corporation.
21. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.02(1) [40 C.F.R. § 260.10], an “owner” is “the person who owns a facility or part of a facility” and an “operator” is “the person responsible for the overall operation of a facility.”
22. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.02(1) [40 C.F.R. § 260.10], “storage” means the holding of a hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.
23. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.11], a person who generates a solid waste, as defined in Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.2], must determine if that waste is a hazardous waste following the methods articulated in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.11].
24. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a) (2016)], a generator of 1,000 kilograms or greater of hazardous waste in a calendar month is a Large Quantity Generator (LQG) and may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, as required by GHWMA, Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], provided that the generator complies with the conditions listed in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)-(4) (2016)] (hereinafter referred to as the “LQG Permit Exemption”).
25. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(3) (2016)], which is a condition of the LQG Permit Exemption, a generator is required to label or clearly mark each container and tank accumulating hazardous waste on-site with the words: “Hazardous Waste.”
26. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(2) (2016)], which is a condition of the LQG Permit Exemption, a generator is required to ensure that the date upon which each period of accumulation begins is clearly marked and visible on each container.
27. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)(i) (2016)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.173(a)], and is a

condition of the LQG Permit Exemption, a generator is required to keep containers of hazardous waste closed when waste is not being added or removed.

28. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(4) (2016)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.35], and is a condition of the LQG Permit Exemption, a generator is required to maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, *unless* aisle space is not needed for any of these purposes.
29. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)(i) (2016)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.171], and is a condition of the LQG Permit Exemption, if a container holding hazardous waste is not in good condition, or if it begins to leak, the generator must transfer the hazardous waste from this container to a container that is in good condition, or manage the waste in some other way that complies with the requirements.
30. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(b) (2016)], an LQG who accumulates hazardous waste for more than 90 days is an operator of a storage facility and is subject to the requirements of Ga. Comp. R. and Regs. 391-3-11-.10 [40 C.F.R. Parts 264, 265, and 267] and the permit requirements of Ga. Comp. R. and Regs. 391-3-11-.11 [40 C.F.R. Part 270].
31. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(4) (2016)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.31], and is a condition of the LQG Permit Exemption, a generator is required to maintain and operate its facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.
32. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(c)(1) (2016)], a generator may accumulate as much as 55 gallons of hazardous waste in containers at or near the point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or without having interim status, as required by Section 12-8-66 of the GHWMA, Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], and without complying with Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a) (2016)], provided that the generator complies with the satellite accumulation area conditions listed in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(c)(1)(i)-(ii) (2016)] (hereinafter referred to as the "SAA Permit Exemption").
33. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(c)(1)(i) (2016)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.173(a)], and is a condition of the SAA Permit Exemption, a container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.

34. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(c)(1)(ii) (2016)], which is a condition of the SAA Permit Exemption, a container holding hazardous waste must be marked either with the words "Hazardous Waste" or with other words that identify the contents of the containers.
35. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)(i) (2016)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.174], and is a condition of the I.QG Permit Exemption, a generator is required to, at least weekly, inspect areas where containers are stored looking for leaking containers and for deterioration of containers caused by corrosion or other factors.
36. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(3), a generator is required to document and maintain onsite for three years, the weekly inspections of hazardous waste central accumulation areas.
37. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(4) (2016)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.16(c)], and is a condition of the I.QG Permit Exemption, a generator is required to provide to its personnel, an annual review of the facility's RCRA training.
38. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(4) (2016)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.16(d)], and is a condition of the I.QG Permit Exemption, a generator is required to maintain at the facility records that document that the training or job experience required under paragraphs (a), (b), and (c) of this section has been given to, and completed by, facility personnel.
39. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.17(1) [40 C.F.R. § 279.22(c)(1)], containers and aboveground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words "Used Oil."
40. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.17(1) [40 C.F.R. § 279.22(d)], upon detection of a release of used oil to the environment, the facility must clean up and manage properly the released used oil and other materials.
41. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.18 [40 C.F.R. § 273.9], a "Small Quantity Handler of Universal Waste" (SQHUW) is a universal waste handler who does not accumulate 5,000 kilograms or more of universal waste (batteries, pesticides, mercury-containing equipment, or lamps, calculated collectively) at any time.
42. Pursuant Ga. Comp. R. and Regs. 391-3-11-.18 [40 C.F.R. § 273.13(d)], a SQHUW must manage universal waste lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment.
43. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.18 [40 C.F.R. § 273.14(e)], a SQHUW must label or mark each lamp or container of lamps clearly with one of the following phrases: "Universal Waste-Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)."

IV. EPA ALLEGATIONS AND DETERMINATIONS

44. Respondent is a "person" as defined in Ga. Comp. R. and Regs. 391-3-11.02(1) [40 C.F.R. § 260.10].
45. Respondent is the former "owner" and "operator" of a "facility" located at 1310 Seaboard Industrial Boulevard, Atlanta, Georgia, as those terms are defined in Ga. Comp. R. and Regs. 391-3-11.02(1) [40 C.F.R. § 260.10]. However, Respondent was the owner and operator of the Facility at all times relevant to this CA/FO.
46. At the facility, Respondent manufactured a wide range of maintenance and cleaning solutions for commercial, industrial and institutional end-markets.
47. Respondent was a "generator" of "hazardous waste" as those terms are defined in Ga. Comp. R. and Regs. 391-3-11.02(1) [40 C.F.R. § 260.10] and Ga. Comp. R. and Regs. 391-3-11.07(1) [40 C.F.R. § 261.3]. On July 20, 2016, Respondent notified the Georgia Department of Natural Resources, Environmental Protection Division (GAEPD) that it is an LQG of hazardous waste as that term is defined in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a) (2016)].
48. Respondent produced a wide range of maintenance and cleaning solutions for commercial, industrial, institutional, and consumer end-markets. Because of its operations, the facility generated universal waste, used oil, D001, D002, D003, D005, D007, D009, D018, D019, D021, D022, D026, D029, D030, D035, D039 and D040 characteristic hazardous wastes; and F002, F003 and F005 listed hazardous wastes.
49. On September 6, 2017, the EPA conducted a compliance evaluation inspection (CEI) at Respondent's Facility. The findings of the CEI were documented in a report mailed to Respondent, dated January 3, 2018.
50. At the time of the September 6, 2017, CEI, the EPA observed that Respondent was storing two hazardous waste containers that were neither labeled nor clearly marked with the words: "Hazardous Waste."
51. The EPA therefore alleges that Respondent violated Section 12-8-66 of the GHWMA, Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption by not complying with the labeling requirements in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(3) (2016)].
52. At the time of the September 6, 2017, CEI, the EPA observed that Respondent had failed to clearly mark six (6) hazardous waste containers with the date upon which accumulation of the waste began.
53. The EPA therefore alleges that Respondent violated Section 12-8-66 of the GHWMA, Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit

Exemption by not complying with the dating requirements of Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(2) (2016)].

54. At the time of the September 6, 2017, CEI, the EPA observed that Respondent was storing hazardous waste in four (4) containers that were open when no hazardous waste was being removed or added to the containers.
55. The EPA therefore alleges that Respondent violated Section 12-8-66 of the GHWMA, Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)(i) (2016)], by not complying with the container management requirements of Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.173(a)].
56. At the time of the September 6, 2017, CEI, the EPA observed that Respondent was storing hazardous waste in one container that was not in good condition.
57. The EPA therefore alleges that Respondent violated Section 12-8-66 of the GHWMA, Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)(i) (2016)], by not complying with the container management requirements of Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.171].
58. At the time of the September 6, 2017, CEI, the EPA observed that Respondent was storing hazardous waste containers without adequate aisle space as to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment during an emergency.
59. The EPA therefore alleges that Respondent violated Section 12-8-66 of the GHWMA, Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)(i) (2016)], by not complying with the aisle space requirements of Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.35].
60. At the time of the September 6, 2017, CEI, the EPA observed that Respondent was storing three (3) hazardous waste containers that were dated with an accumulation start date that was more than 90 days before the inspection.
61. The EPA therefore alleges that Respondent violated Section 12-8-66 of the GHWMA, Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste in excess of 90 days without a permit or interim status in violation of Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(b) (2016)].
62. At the time of the September 6, 2017, CEI, the EPA observed that Respondent was accumulating hazardous waste in four SAA containers that were open when no hazardous waste was being removed or added to the containers.

63. The EPA therefore alleges that Respondent violated Section 12-8-66 of the GHWMA, Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the SAA Permit Exemption set forth in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(c)(1)(i) (2016)], by not complying with the container management requirements of Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.173(a)].
64. At the time of the September 6, 2017, CEI, the EPA observed that Respondent was accumulating hazardous waste in two (2) containers that were neither labeled nor clearly marked with the words: "Hazardous Waste" or with other words that identify the contents of the containers.
65. The EPA therefore alleges that Respondent violated Section 12-8-66 of the GHWMA, Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the SAA Permit Exemption set forth in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(c)(1)(ii) (2016)].
66. At the time of the September 6, 2017, CEI, the EPA observed that Respondent was storing used oil in four (4) containers that were neither marked nor labeled with the words "Used Oil."
67. The EPA therefore alleges that Respondent violated Ga. Comp. R. and Regs. 391-3-11-.17(1) [40 C.F.R. § 279.22(c)(1)], by failing to label or mark used oil containers with the words "Used Oil."
68. At the time of the September 6, 2017, CEI, the EPA observed that Respondent had failed to make hazardous waste determinations on several expired or off-spec materials, returned products and a waste bottle.
69. The EPA therefore alleges that Respondent violated Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.11], by failing to conduct hazardous waste determinations on the waste streams listed in paragraph 68 above.
70. At the time of the September 6, 2017, CEI, the EPA observed that Respondent had failed to maintain and operate portions of its facility in a manner that minimizes the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment by failing to clean spilled material in three areas of the facility.
71. The EPA therefore alleges Respondent violated Section 12-8-66 of the GHWMA, Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(4) (2016)], by not complying with the maintenance and operation requirements of Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.31].
72. At the time of the September 6, 2017, CEI, the EPA observed used oil on top of four (4) containers.

73. The EPA therefore alleges that Respondent violated Ga. Comp. R. and Regs. 391-3-11-.17(1) [40 C.F.R. § 279.22(d)], by failing to clean up and properly manage used oil releases upon detection.
74. At the time of the September 6, 2017, CEI, Respondent was storing universal waste lamps in an open box which would not prevent the release of any universal waste or a component of a universal waste to the environment.
75. The EPA therefore alleges that Respondent violated Ga. Comp. R. and Regs. 391-3-11-.18 [40 C.F.R. § 273.13(d)], by failing to manage spent universal waste lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment.
76. At the time of the September 6, 2017, CEI, Respondent had not labeled or marked each lamp or container of lamps clearly with the words "Universal Waste—Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)."
77. The EPA therefore alleges that Respondent Ga. Comp. R. and Regs. 391-3-11-.18 [40 C.F.R. § 273.14(e)], by failing to label or mark each lamp or container of lamps clearly with one of the following phrases: "Universal Waste-Lamp(s)," or "Waste Lamp(s)," or "Used Lamps."
78. At the time of the September 6, 2017, CEI, Respondent was not able to provide to the EPA the weekly inspection logs for its hazardous waste containers storage areas nor its hazardous waste training records.
79. On September 18, 2017, Respondent provided to the EPA electronic copies of the hazardous waste storage units' inspection logs from years 2015 through 2017.
80. The EPA reviewed the submitted inspection logs and noted that on several occasions in 2016, Respondent failed to inspect its hazardous waste storage areas.
81. The EPA therefore alleges that Respondent violated Section 12-8-66 of the GHWMA, Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)(i) (2016)], by not complying with the inspections requirements of Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.174] and Ga. Comp. R. and Regs. 391-3-11-.08(3).
82. On September 18, 2017, Respondent provided to the EPA electronic copies of its hazardous waste training records from years 2015 through 2017.
83. The EPA reviewed the submitted training records and noted that Respondent failed to provide an annual review of the facility's RCRA training program to its personnel in 2016.
84. The EPA therefore alleges that Respondent violated Section 12-8-66 of the GHWMA, Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(4) (2016)], by not complying with the training requirements of Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.16(c) and (d)].

V. TERMS OF AGREEMENT

Based on the foregoing Preliminary Statements, Allegations and Determinations, the parties agree to the following:

85. For the purposes of this CA/FO, Respondent admits the jurisdictional allegations set out in the above paragraphs pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928.
86. Respondent neither admits nor denies the factual allegations and determinations set out in this CA/FO.
87. Respondent waives any right to contest the allegations and its right to appeal the proposed Final Order accompanying the Consent Agreement.
88. Respondent waives its right to challenge the validity of this CA/FO and the settlement of the matters addressed in this CA/FO based on any issue related to the Paperwork Reduction Act, 44 U.S.C. § 3501 *et seq.*
89. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to EPA officials where the purpose of such discussion, memorandum, or communication is to persuade such official to accept and issue this CA/FO.
90. Respondent 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 CA/FO, including any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.
91. The parties agree that the settlement of this matter is in the public interest and that this CA/FO is consistent with the applicable requirements of RCRA.
92. The parties agree that compliance with the terms of this CA/FO shall resolve only Respondent's liability for the specific violations alleged in this CA/FO.
93. Respondent consents to the issuance of this compliance order.
94. Respondent consents to the conditions specified in this CA/FO.
95. The terms, conditions, and compliance requirements of this Consent Agreement may not be modified or amended except upon the written agreement of both Parties, and approval of the Regional Judicial Officer.
96. Each party will pay its own costs and attorneys' fees.

VI. WORK TO BE PERFORMED

97. Within ninety (90) days from the effective date of this CA/FO, Respondent shall submit to the EPA and GAEPD a Best Management Procedures (BMP) Plan that describes the procedures to be implemented at its new location, in 350 Joe Frank Harris Pkwy SE, Cartersville, Georgia, to manage products returned from clients and off specification products (collectively, referred to as secondary materials) that would meet the definition of hazardous wastes, when determined to be wastes. At a minimum, the BMP Plan shall include the following:
- i. An inventory program to track the acceptance, waste determination and management of the secondary materials. The waste determination should be conducted within fifteen (15) calendar days from the receipt of the returned products or the generation of the off-spec-materials.
 - a. For any secondary material deemed to be a product, document in the inventory log the basis of the determination and describe the procedure to be used to keep the containers in good condition and properly identified; and.
 - b. For any secondary material deemed to be a waste, manage the hazardous waste in compliance with the applicable hazardous waste generator standards in 40 C.F.R. § 262.34.
 - ii. A requirement to conduct an inventory of the secondary materials on-site, and evaluate each material to determine whether it is still a product or a waste, at the beginning of each calendar year, but not later than January 15th.

VII. PAYMENT OF CIVIL PENALTY

98. Respondent consents to the payment of a civil penalty in the amount of NINETY-NINE THOUSAND FIVE HUNDRED DOLLARS (\$99,500), which is to be paid within thirty (30) calendar days of the effective date of this CA/FO.
99. Payment(s) shall be made by cashier's check, certified check, by electronic funds transfer (EFT), or by Automated Clearing House (ACH) (also known as REX or remittance express). If paying by check, the check shall be payable to: **Treasurer, United States of America**, and the Facility name and docket number for this matter shall be referenced on the face of the check. If Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

United States Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

If Respondent sends payment by non-U.S. Postal express mail delivery, the payment shall be sent to:

DOCKET NO.: RCRA-04-2018-4014(b)

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-G1.
St. Louis, Missouri 63101
(314) 425-1818

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

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

If paying by ACH, Respondent shall remit payment to:

US Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking Physical
location of US Treasury facility:
5700 Rivertech Court
Riverdale, Maryland 20737
Contact: John Schmid, (202) 874-7026
REX (Remittance Express): 1-866-234-5681

100. If Respondent fails to remit the civil penalty as agreed to herein, the EPA is required to assess interest and penalties on debts owed to the United States and a charge to cover the costs of processing and handling the delinquent claim. Interest, at the statutory judgment rate provided for in 31 U.S.C. § 3717, will therefore begin to accrue on the civil penalty if not paid within 30 calendar days after the effective date of this Consent Agreement or, if paying in installments, not paid in accordance with the installment schedule provided above. Pursuant to 31 U.S.C. § 3717, Respondent must pay the following amounts on any amount overdue:
- a. Interest. Any unpaid portion of a civil penalty must bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Interest will therefore begin to accrue on a civil penalty if it is not paid by the last date required. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 4 C.F.R. § 102.13(c).

- b. Monthly Handling Charge. Respondent must pay a late payment handling charge of fifteen dollars (\$15.00) on any late payment, with an additional charge of fifteen dollars (\$15.00) for each subsequent thirty (30) calendar-day period over which an unpaid balance remains.
- c. Non-Payment Penalty. On any portion of a civil penalty more than ninety (90) calendar days past due, Respondent must pay a non-payment penalty of six percent (6%) per annum, which will accrue from the date the penalty payment became due and is not paid. This non-payment is in addition to charges which accrue or may accrue under subparagraphs (a) and (b).

101. Penalties paid pursuant to this CA/FO are not deductible for federal purposes under 26 U.S.C. § 162(f).

VIII. PARTIES BOUND

- 102. This CA/FO shall be binding on Respondent and its successors and assigns. Respondent shall cause its officers, directors, employees, agents, and all persons, including independent contractors, contractors, and consultants acting under or for Respondent, to comply with the provisions hereof in connections with any activity subject to this CA/FO.
- 103. No change in ownership, partnership, corporate or legal status relating to the Facility will in any way alter Respondent's obligations and responsibilities under this CA/FO.
- 104. The undersigned representative of Respondent hereby certifies that she or he is fully authorized to enter into this CA/FO and to execute and legally bind Respondent to it.

IX. RESERVATION OF RIGHTS

- 105. Notwithstanding any other provision of this CA/FO, an enforcement action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should the EPA find that the handling, storage, treatment, transportation, or disposal of solid waste or hazardous waste at Respondent's Facility may present an imminent and substantial endangerment to human health or the environment.
- 106. Complainant reserves the right to take enforcement action against Respondent for any future violations of RCRA and the implementing regulations and to enforce the terms and conditions of this CA/FO.
- 107. Except as expressly provided herein, nothing in this CA/FO shall constitute or be construed as a release from any civil or criminal claim, cause of action, or demand in law or equity for any liability Respondent may have arising out of, or relating in any way to, the storage, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from Respondent's Facility.

X. OTHER APPLICABLE LAWS

108. All actions required to be taken pursuant to this CA/FO shall be undertaken in accordance with the requirements of all applicable local, state, and Federal laws and regulations. Respondent shall obtain or cause its representatives to obtain all permits and approvals necessary under such laws and regulations.

XI. SERVICE OF DOCUMENTS

109. A copy of any documents that Respondent files in this action shall be sent to the following attorney who represents the EPA in this matter and who is authorized to receive service for EPA in this proceeding:

Joan Redleaf-Durbin
Associate Regional Counsel
Office of RCRA, OPA and UST Legal Support
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
(404) 562-9544

110. A copy of any documents that Complainant files in this action shall be sent to the following individual who represents Respondent in this matter and who is authorized to receive service for Respondent in this proceeding:

Colleen Grace Donofrio
Babst Calland, Attorneys at Law
380-A Tylers Mill Road
Sewell, New Jersey 08080
Office Phone: 856-256-2495

XII. SEVERABILITY

111. It is the intent of the parties that the provisions of this CA/FO are severable. If any provision or authority of this CA/FO or the application of this CA/FO to any party or circumstances is held by any judicial or administrative authority to be invalid or unenforceable, the application of such provisions to other parties or circumstances and the remainder of the CA/FO shall remain in force and shall not be affected thereby.


XIII. EFFECTIVE DATE

112. The effective date of this CA/FO shall be the date on which the CA/FO is filed with the Regional Hearing Clerk.

In the matter of Zep Incorporated, Docket No. RCRA-04-2018-4014(b):

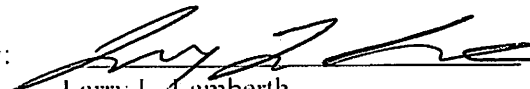
AGREED AND CONSENTED TO:

Zep Incorporated

By: 
Mike Ware
EVP and Chief Value Chain Officer
Zep Incorporated

Dated: 9/20/18

United States Environmental Protection Agency

By: 
Larry L. Lamberth
Chief, Enforcement and Compliance Branch
Resource Conservation and Restoration Division

Dated: 09/20/18

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

IN THE MATTER OF:)	DOCKET NO.: RCRA-04-2018-4014(b)
)	
Zep Incorporated)	
1310 Seaboard Industrial Boulevard)	Proceeding Under Section 3008(a) of the
Atlanta, Georgia)	Resource Conservation and Recovery Act.
EPA ID No.: GAD003267192)	42 U.S.C. § 6928(a)
Respondent)	
)	

FINAL ORDER

The foregoing Consent Agreement is hereby approved, ratified and incorporated by reference into this Final Order in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22. Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

BEING AGREED, IT IS SO ORDERED this 20th day of September, 2018.

BY: Tanya Floyd
Tanya Floyd
Regional Judicial Officer
EPA Region 4

CERTIFICATE OF SERVICE

I hereby certify that I have this day filed the original and a true and correct copy of the foregoing Consent Agreement and the attached Final Order (CA/FO), in the Matter of Zep Incorporated, Docket Number: RCRA-04-2018-4014(b), and have served the parties listed below in the manner indicated:

Joan Redleaf-Durbin
Associate Regional Counsel
Office of RCRA/CERCLA Legal Support
Office of Regional Counsel

(Via EPA's electronic mail)

Javier E. Garcia
Hazardous Waste Enforcement and Compliance Section
Enforcement and Compliance Branch
Resource Conservation and Restoration Division

(Via EPA's electronic mail)

Quantindra Smith
Environmental Protection Specialist
Enforcement and Compliance Branch
Resource Conservation and Restoration Division

(Via EPA's electronic mail)

Colleen Grace Donofrio
Babst Calland, Attorneys at Law
380-A Tylers Mill Road
Sewell, New Jersey 08080

(Via Certified Mail – Return Receipt requested)

Date: _____

9-21-18



Patricia A. Bullock
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
(404) 562-9511