UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

IN THE MATTER OF:	)	DOCKET NO.: RCRA-04-2018-4000(b)
	)	
Respondent,	)	
	)	
Decostar Industries, Inc.	)	Proceeding Under Section 3008(a) of the
1 Decoma Drive	)	Resource Conservation and Recovery Act,
Carrollton, Georgia 30117	)	42 U.S.C. § 6928(a)
	)	
EPA ID No.: GAR000034033	)	
	)	

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HEARING CLERK

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 and 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 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 Ga. Comp. R. and Regs. 391-3-11.01 to 391-3-11.18 [40 C.F.R. Parts 260 through 270].

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). 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 CA/FO.

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 Decostar Industries, Inc., a corporation organized under the laws of the State of Delaware. Respondent is the owner and operator of a manufacturing facility located at 1 Decoma Drive, Carrollton, Georgia, 30117 (the Facility).

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 GHWMA, Ga. Code Ann. §§ 12-8-60 *et seq.* and GHWMR, 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 of Georgia 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 of those authorized provisions 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 at Ga. Comp. R. and Regs. 391-3-11.08(1) [40 C.F.R. Part 262].

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. 391-3-11.10(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 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. 391-3-11-.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.

    a. 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.

    b. 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.

    c. 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 identified with the EPA Hazardous Waste Number associated with the toxic contaminant causing it to be hazardous. 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 benzene is a hazardous waste identified with the EPA Hazardous Waste Number D018.

    d. 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 identified with the EPA Hazardous Waste Number associated with the toxic contaminant causing it to be hazardous. 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 methyl ethyl ketone is a hazardous waste identified with the EPA Hazardous Waste Number D035.

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. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. §§ 261.30 and 261.31], spent non-halogenated solvents: Xylene, acetone, ethyl acetate, ethyl benzene, ethyl ether, methyl isobutyl ketone, n-butyl alcohol, cyclohexanone, and methanol; all spent solvent mixtures/blends containing, before use, only the above spent non-halogenated solvents; and all spent solvent mixtures/blends containing, before use, one or more of the above non-halogenated solvents, and, a total of ten percent or more (by volume) of one or more of those solvents listed in F001, F002, F004, and F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures, are listed hazardous waste and identified with the EPA Hazardous Waste Number F003.

    b. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. §§ 261.30 and 261.31], spent non-halogenated solvents: Toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, benzene, 2-ethoxyethanol, and 2-nitropropane; all spent solvent mixtures/blends containing, before use, a total of ten percent or more (by volume) of one or more of the above non-halogenated solvents or those solvents listed in F001, F002, or F004; and still bottoms from the recovery of these spent solvents and spent solvent mixtures, are listed hazardous waste and identified with the EPA Hazardous Waste Number F005.

17. 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 Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. Part 261], or whose act first causes a hazardous waste to become subject to regulation."

18. 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."

19. Pursuant to Ga. Comp. R. and Regs. 391-3-11.02(1) [40 C.F.R. § 260.10], a "person" includes a corporation.

20. Pursuant to Ga. Comp. R. and Regs. 391-3-11.02(1) [40 C.F.R. § 260.10], an "owner" means the person who owns a facility or part of a facility.

21. Pursuant to Ga. Comp. R. and Regs. 391-3-11.02(1) [40 C.F.R. § 260.10], an "operator" means 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. 391-3-11.02(1) [40 C.F.R. § 260.10], a "container" means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

24. Pursuant to Ga. Comp. R. and Regs. 391-3-11.02(1) [40 C.F.R. § 260.10], "disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

25. Pursuant to Ga. Comp. R. and Regs. 391-3-11.02(1) [40 C.F.R. § 260.10], "tank" means a stationary device, designed to contain an accumulation of hazardous waste which is constructed primarily of non-earthen materials (e.g., wood, concrete, steel, plastic) which provide structural support.

26. Pursuant to Ga. Comp. R. and Regs. 391-3-11.02(1) [40 C.F.R. § 260.10], "tank system" means a hazardous waste storage or treatment tank and its associated ancillary equipment and containment system.

27. Pursuant to Ga. Comp. R. and Regs. 391-3-11.10(1) [40 C.F.R. § 264.1031], "in light liquid service" means that the piece of equipment contains or contacts a waste stream where the vapor pressure of one or more of the organic components in the stream is greater than 0.3 kilopascals (kPa) at 20 °C, the total concentration of the pure organic components having a vapor pressure greater than 0.3 kilopascals (kPa) at 20 °C is equal to or greater than 20 percent by weight, and the fluid is a liquid at operating conditions.

28. Pursuant to GA. Code Ann. § 12-8-62(23) (Section 1004(34) of RCRA, 42 U.S.C. § 6903(34)], "treatment" means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste, or so as to render such waste nonhazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume. Such term includes any activity or process designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous. Dilution is a form of treatment.

29. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)], 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)] (hereinafter referred to as the "LQG Permit Exemption").

30. Pursuant Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(c)(1)], 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 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)], provided that the generator complies with the satellite accumulation area (SAA) conditions listed in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(c)(1)(i)-(ii)] (hereinafter referred to as the "SAA Permit Exemption").

31. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)(i) and 262.34(c)(1)(i)], 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 and the SAA Permit Exemption, containers of hazardous waste must remain closed when waste is not being added or removed.

32. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)(i)], which incorporates Ga. Comp. R. and Regs 391-3-11-.10(1) [40 C.F.R. § 265.174], and is a condition of the LQG Permit Exemption, the owner or operator 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.

33. Pursuant to Ga. Comp. R. and Regs. 391-3-11.08(1) [40 C.F.R. § 262.34(a)(1)(ii)], which incorporates Ga. Comp. R. and Regs. 391-3-11.10(1) [40 C.F.R. Part 265, Subpart BB], and is a condition of the LQG Permit Exemption, an owner or operator who treats, stores, or disposes of hazardous waste with organic concentrations of at least ten percent by weight must comply with the organic air emission standards for equipment leaks, as required by Ga. Comp. R. and Regs. 391-3-11.10(1) [40 C.F.R. Part 265, Subpart BB] ("Subpart BB").

34. Pursuant to Ga. Comp. R. and Regs. 391-3-11.10(1) [40 C.F.R. § 265.1052], a "leak" is detected if an instrument reading of 10,000 ppm or greater is measured, using the methods specified in Ga. Comp. R. and Regs. 391-3-11.10(1) [40 C.F.R. Part 265.1063(b)].

35. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)(ii)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. 265.1050(c)], and is a condition of the LQG Permit Exemption, each piece of equipment subject to Subpart BB requirements is required to be marked in such a manner that each component can be distinguished readily from other pieces of equipment.

36. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)(ii)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1052 (a)(1) and (a)(2)], and is a condition of the LQG Permit Exemption, each pump in light liquid service shall be monitored monthly to detect leaks by the methods specified in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1063(b)]. Each pump in light liquid service shall be checked by visual inspection each calendar week for indications of liquids dripping from the pump seal.

37. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)(ii)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1064], and is a condition of the LQG Permit Exemption, the owner or operator must maintain a list of equipment identification numbers, type of equipment, test results, and subject regulatory requirements for each piece of that is subject to Subpart BB.

38. Pursuant to Ga. Comp. R. and Regs. 391-3-11.08(1) [40 C.F.R. § 262.34(a)(1)(ii)], which incorporates Ga. Comp. R. and Regs. 391-3-11.10(1) [40 C.F.R. Part 265, Subpart CC], and is a condition of the LQG Permit Exemption, an owner or operator who treats, stores, or disposes of hazardous waste containing an average volatile organic concentration greater than 500 parts per million by weight (ppmw) at the point of waste origination in surface impoundments, tanks, miscellaneous units, or containers must meet the organic air emission standards, as required by Ga. Comp. R. and Regs. 391-3-11.10(1) [40 C.F.R. Part 265, Subpart CC] ("Subpart CC").

39. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)(ii)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1081], "fixed roof" means a cover that is mounted on a unit in a stationary position and does not move with fluctuations in the level of the material managed in the unit.

40. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)(ii)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1081], "maximum organic vapor pressure" means the sum of the individual organic constituent partial pressures exerted by the material contained in a tank, at the maximum vapor pressure-causing conditions (i.e., temperature, agitation, pH effects of combining wastes, etc.) reasonably expected to occur in the tank. For the purpose of this subpart, maximum organic vapor pressure is determined using the procedures specified in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1081(c)] of this subpart.

41. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)(ii)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1081], "average volatile organic concentration" or "average VO concentration" means the mass-weighted average volatile organic concentration of a hazardous waste as determined in accordance with the requirements of Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1084] of this subpart.

42. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)(ii)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1081], "waste stabilization process " means any physical or chemical process used to either reduce the mobility of hazardous constituents in a hazardous waste or eliminate free liquids as determined by Test Method 9095B (Paint Filter Liquids Test) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference in Ga. Comp. R. and Regs. 391-3-11.02(1) [40 C.F.R. § 260.11]. A waste stabilization process includes mixing the hazardous waste with binders or other materials, and curing the resulting hazardous waste and binder mixture. Other

synonymous terms used to refer to this process are "waste fixation" or "waste solidification." This does not include the adding of absorbent materials to the surface of a waste, without mixing, agitation, or subsequent curing, to absorb free liquid.

43. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)(ii)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1081], "closure device" means a cap, hatch, lid, plug, seal, valve, or other type of fitting that blocks an opening in a cover such that when the device is secured in the closed position it prevents or reduces air pollutant emissions to the atmosphere. Closure devices include devices that are detachable from the cover (e.g., a sampling port cap), manually operated (e.g., a hinged access lid or hatch), or automatically operated (e.g., a spring-loaded pressure relief valve).

44. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)(ii)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1085(b)(1)], and is a condition of the LQG Permit Exemption, the owner or operator shall determine the applicable air pollutant emissions controls for each tank subject to this section in accordance with the requirements.

45. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)(ii)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1085(b)(i)-(iii)], and is a condition of the LQG Permit Exemption, the owner or operator shall control air pollutant emissions from each tank, which has a design capacity of less than 75 m^3, the maximum organic vapor pressure is 76.6 kPa, that is not heated to a temperature that is greater than the temperature at which the maximum organic vapor pressure of the hazardous waste is determined, and is not used in a waste stabilization process, in accordance with Tank Level 1 Controls specified in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1085(c)].

46. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)(ii)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1085(c)(2)], and is a condition of the LQG Permit Exemption, the owner or operator controlling air pollutant emissions from a tank subject to Subpart CC, Tank Level 1 Controls, shall equip the tank with a fixed roof that is designed according to the requirements of this part.

47. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)(ii)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1085(c)(2)(iv)], and is a condition of the LQG Permit Exemption, the owner or operator controlling air pollutant emissions from a tank subject to Subpart CC, Tank Level 1 Controls, must ensure that its fixed roof and closure devices are made of suitable materials that will minimize exposure of the hazardous waste to the atmosphere, to the extent practical, and will maintain the integrity of the fixed roof and closure devices throughout their intended service life.

48. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)(ii)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1085(c)(3)], and is a condition of the LQG Permit Exemption, the owner or operator controlling air pollutant emissions from a tank subject to Subpart CC, Tank Level 1 Controls, must ensure that its fixed roof is installed with closure device secured in the closed position.

49. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)(ii)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1085(c)(4)], and is a condition of the LQG Permit Exemption, the owner or operator controlling air pollutant emissions from a tank subject to Subpart CC, Tank Level 1 Controls, is required to inspect the fixed roof and its closure devices for defects that could result in air pollutant emissions.

50. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)(ii)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1085(k)], and is a condition of the LQG Permit Exemption, the owner or operator controlling air pollutant emissions from a tank subject to Subpart CC, Tank Level 1 Controls, must visually inspect the fixed roof and its closure devices and repair any defects within the allowable timeframes.

51. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)(ii)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1090], and is a condition of the LQG Permit Exemption, the owner or operator controlling air pollutant emissions from a tank subject to Subpart CC, Tank Level 1 Controls, must maintain records including tank identification numbers, records of inspections, descriptions of defects identified, and corrective action to repair defects.

52. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)(ii)], which incorporates Ga. Comp. R. and Regs 391-3-11-.10(1) [40 C.F.R. § 265.192(g)], and is a condition of the LQG Permit Exemption, the owner or operator accumulating hazardous waste in tanks must obtain and keep on file written statements by those persons required to certify the design of the tank system and supervise the installation of the tank system attesting that the tank system was properly designed and installed.

53. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)(ii)], which incorporates Ga. Comp. R. and Regs 391-3-11-.10(1) [40 C.F.R. § 265.193(b)], and is a condition of the LQG Permit Exemption, the owner or operator accumulating hazardous waste in tanks must design, install and operate the secondary containment for tanks.

54. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)(ii)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.193(d)], and is a condition of the LQG Permit Exemption, the owner or operator accumulating hazardous waste in tanks must ensure that secondary containment include one or more of the following devices: (1) liner (external to the tank); (2) vault; (3) double-walled tank; or

(4) equivalent device as approved by the Regional Administrator.

55. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)(ii)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.193(e)(1)(iii)], and is a condition of the LQG Permit Exemption, the owner or operator accumulating hazardous waste in tanks must have secondary containment systems which is free of cracks or gaps; and designed and installed to completely surround the tank and to cover all surrounding earth likely to come into contact with the waste if released from the tank(s).

56. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)(ii)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. §§ 265.195(a), (b), and (e)], and is a condition of the LQG Permit Exemption, the owner or operator must inspect, at least once each operating day, data gathered from monitoring and leak detection equipment to ensure that the tank system is being operated according to its design.

57. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(2)], 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.

58. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(2)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. §§ 265.16(a) and (d)(2)], and is a condition of the LQG Permit Exemption, facility personnel must successfully complete a program of classroom instruction or on-the-job and maintain the job title for each position at the facility related to hazardous waste management.

59. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(4)], 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 facility is required to be maintained and operated 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.

60. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(4)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.37], and is a condition of the LQG Permit Exemption, the owner or operator must attempt to make arrangements with the local authorities, as appropriate, for the type of waste handled at the facility and the potential need for the services of these authorities.

61. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(4)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. §§ 265.54)], and is a condition of the LQG Permit Exemption, the contingency plan must be reviewed and immediately amended when the list of emergency coordinators changes.

62. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(4)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.53(b)], and is a condition of the LQG Permit Exemption, a copy of the contingency plan and all revisions to the plan must be submitted to all local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services.

IV. EPA ALLEGATIONS AND DETERMINATIONS

63. Respondent is a "person" as defined in Ga. Comp. R. and Regs. 391-3-11.02(1) [40 C.F.R. § 260.10].

64. Respondent is the "owner/operator" of a "facility" located at 1 Decoma Drive, Carrollton, Georgia, as those terms are defined in Ga. Comp. R. and Regs. 391-3-11-.02(1) [40 C.F.R. § 260.10].

65. Respondent is 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].

66. Respondent manufactures plastic automotive components, such as lift gates and bumpers. The primary operations at the Facility include injection molding and surface coating of plastic parts.

67. Respondent, as a result of its practices and operations at the Facility, is a LQG, as that term is defined in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)], at all times relevant to this CA/FO.

68. The Facility generates hazardous wastes identified with the following EPA Hazardous Waste Numbers: D001, D003, D018, D035, F003, and F005.

69. As part of the Facility's operations, hazardous waste generated from the priming, painting, and coating systems, is managed in a hazardous waste tank system, which is comprised of three purge boxes in the paint booths, three 36-gallon tanks (Tanks 73, 74 and 75) in the basement, a 250-gallon mixing tank (Tank 40) in the kitchen, a 5,000-gallon storage tank (Tank 19) in the rear of the building, and piping, connectors, valves, pumps and other equipment ancillary to the tank system. The hazardous waste managed in the hazardous waste tank system has an organic concentration of more than 20 percent by weight and a volatile organic concentration of more than 500 ppm by weight. Therefore, the hazardous waste tank system is in light liquid service and subject to the requirements of Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. Part 264, Subparts BB and CC].

70. Additionally, Respondent had determined that the hazardous waste managed in the hazardous waste tank system has a vapor pressure of less than 76.6 kPa. Furthermore, the tanks in Respondent's hazardous waste tank system are smaller than 20,000 gallons and

are not used for stabilization. Therefore, each tank in Respondent's hazardous waste tank system is subject to Tank Level 1 Controls pursuant to Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1085(b)].

71. On May 26, 2016, the EPA and the Georgia Environmental Protection Division conducted a compliance evaluation inspection (CEI) at Respondent's Facility. During the CEI, the EPA monitored organic air emissions with a Toxic Vapor Analyzer (TVA) using Method 21.

72. On September 7, 2016, the EPA mailed a request for information letter pursuant to Section 3007 of RCRA to the Respondent's Facility. On September 26, 2016, Respondent provided a response to the request for information (3007 Response).

73. The EPA's findings of the CEI and the 3007 Response were documented in a RCRA CEI Report mailed to the Facility dated October 27, 2016.

74. According to the 3007 Response, the Respondent failed to conduct weekly inspections of areas where hazardous waste was stored. Specifically, Respondent failed to conduct weekly inspections on no less than 42 occasions from April 2013 to May 2016.

75. 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)], by not complying with the inspection requirements of Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.174].

76. At the time of the CEI, the EPA observed that Respondent had not clearly identified and marked each component of the hazardous waste tank system, which was subject to Subpart BB.

77. 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)(ii)], by not complying with the identification requirements of the Organic Air Emission Standards of Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1050(c)].

78. According to the 3007 Response, Respondent failed to properly conduct monthly monitoring and weekly visual leak inspections of pumps managing hazardous waste. Leak detection and repair (LDAR) monitoring records were reviewed for three years beginning June 2013. The Respondent produced 29 LDAR Reports summarizing leak detection monitoring events conducted on the following dates:

2/7/2013	4/29/2014	7/9/2015

2/14/2013	7/23/2014	8/13/2015
3/27/2013	8/25/2014	9/10/2015
5/2/2013	10/21/2014	10/16/2015
5/9/2013	1/28/2015	11/15/2015
6/3/2013	2/11/2015	12/11/2015
9/25/2013	3/12/2015	1/13/2016
10/16/2013	4/8/2015	2/8/2016
1/9/2014	5/13/2015	3/9/2016
3/13/2014	6/8/2015	4/13/2016

No other monitoring of the pumps was provided. In addition to the monthly monitoring exceedances described above, the following specific issues were noted:

a. The pump identified as KWP2 does not appear to have regular monthly monitoring between January 9, 2014, and April 29, 2014.
b. The pump identified as PWP1 does not appear to have regular monthly monitoring prior to April 29, 2014.
c. The pumps identified as PWP1 and PWP2 were not included in the June 8, 2015, LDAR monitoring.
d. The pump identified as KWSP1, described as the kitchen sink waste pump, was monitored only once on June 3, 2013.
e. Prior to February, 2015, LDAR monitoring does not appear to have been conducted on a monthly frequency.
f. Ten of the 12 LDAR monitor reports conducted during that time period were outside of the required monthly frequency for pumps.
g. The improper implementation of Method 21.
h. The identification of very high background readings with no determination of why the background was so high.

79. 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)(ii)], by not complying with the monitoring and inspection requirements of the Organic Air Emission Standards of Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1052 (a)(1) and (a)(2)].

80. According to the 3007 Response, Respondent failed to prepare and maintain the records required to clearly identify Subpart BB regulated equipment.

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)(ii)], by not complying with the record keeping requirements of the Organic Air Emission Standards of Ga. Comp. R. and Regs. 391-3-

11-.10(1) [40 C.F.R. § 265.1064].

82. According to the 3007 Response and observations made by the EPA at the time of the CEI, Respondent's Tanks 73, 74, and 75, which are a part of the hazardous waste tank system, were vented directly through a vent system to the Regenerative Thermal Oxidizer, a control device, which is a closed-vent system. Therefore, Respondent failed to meet Tank Level 1 Controls, which do not allow a closed-vent system.

83. 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 Ca. Comp. R. and Regs. 391-3-11-.08)1) [40 C.F.R. § 262.34(a)(1)(ii)], by not complying with the vent system requirements of the Organic Air Emission Standards of Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1085(b)(1)].

84. According to the 3007 Response, numerous instances of organic air emissions were noted in the basement and the kitchen. These organic air emissions were attributed to the improper sealing of the fixed roof to the tank wall. At the time of the CEI, the EPA observed paint waste dripping from the caulk seal between the fixed roof and tank wall on Tank 40. The caulked seal was not sufficient to withstand the solvent properties of the hazardous waste. The EPA noticed an overwhelming solvent odor in the basement in the area of Tanks 73, 74, and 75. The EPA measured the background concentration of organics to be between 20 ppm and 300 ppm in various locations in the basement. The EPA observed the lids of the tanks clamped down using C-clamps which did not adequately seal the tank. Additional observation revealed that the tanks had been designed with piano type hinges across the lids, which did not provide a continuous barrier. The EPA determined that the solvent odor was originating from the tanks' lids, which were found to have organic air emissions detectable at concentrations of 6,800 ppm to 21,000 ppm.

85. 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)(ii)], by not complying with the emission control requirements of the Organic Air Emission Standards of Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1085(c)(2)].

86. According to the 3007 Response and observations made by the EPA at the time of the CEI, Respondent failed to design and install the fixed roof and its closure devices using suitable materials to minimize exposure of the hazardous waste to the atmosphere and maintain the integrity of the fixed roof and closure devices throughout their intended service life. The EPA observed the caulk seal on Tank 40 to be leaking. The fixed roofs on Tanks 73, 74, and 75 were found to have symmetrically spaced holes which aligned with holes on the tank walls. However, bolts had not been placed in all the holes to secure

the lid to the tank wall. Instead C-clamps had been placed on the edges of the tanks. The Tanks had all been designed with piano type hinges which did not provide a continuous barrier.

87. 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)(ii)], by not complying with the requirements to minimize exposure to hazardous waste and maintain the integrity of the closure devices of the Organic Air Emission Standards of Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1085(c)(2)(iv)].

88. At the time of the CEI, the EPA observed that the Respondent had failed to properly install the fixed roofs and/or closure devices in a secured and closed position on Tanks 73, 74, and 75. Tanks 73, 74, and 75 were not bolted shut.

89. 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)(ii)], by not complying with the requirements to keep roofs and tanks closed and secure of the Organic Air Emission Standards of Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1085(c)(3)].

90. According to the 3007 Response and observations made by the EPA at the time of the CEI, the Respondent failed to properly inspect or monitor the hazardous waste tanks for leaks. The initial inspection record, annual inspection record, and major repair tank inspection and monitoring records were not available as a separate record from LDAR reports, weekly or daily inspections. The LDAR reports, weekly and daily inspections did not indicate that all the tanks have been visually checked for defects, as required. In some instances, these records directly contradicted each other.

91. 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)(ii)], by not complying with the inspection and recordkeeping requirements of the Organic Air Emission Standards of Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1085(c)(4)].

92. According to the 3007 Response and observations made by the EPA at the time of the CEI, the Respondent failed to properly repair defects in the hazardous waste tanks prior to resuming operations. Six of the LDAR reports (August 25, 2014, January 28, 2015, February 11, 2015, March 12, 2015, April 8, 2015, and May 13, 2015) indicated that the clear coat tank (Tank 75) lid seal was leaking. During this time, the only repair record

identified, dated January 28, 2015, indicated that the gasket was cleaned and the lid bolted down. No record confirming the success of the January 2015 repair was available.

93. 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)(ii)], by not complying with the requirements regarding repairs of the Organic Air Emission Standards of Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1085(k)].

94. According to the 3007 Response, the Respondent failed to maintain records of tank inspections, the defects identified, and how those defects were properly repaired.

95. 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)(ii)], by not complying with the defects and repairs recordkeeping requirements of the Organic Air Emission Standards of Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1090].

96. According to the 3007 Response, the Respondent failed to have the hazardous waste tank system properly certified by a Professional Engineer (PE). Specifically, the January 30, 2014, certification did not include the bulk solvent waste tank containment area and the truck unloading area, areas that are used to manage hazardous waste.

97. 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)(1)(ii)], by not complying with the tank design and installation certification requirements of Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.192(g)].

98. According to the 3007 Response and observations made by the EPA at the time of the CEI, Respondent failed to design, install and operate the secondary containment associated with Tank 19, as required. The PE certification determined that the secondary containment was not free of cracks and gaps. At the time of the CEI, the EPA observed gaps in the secondary containment, which would allow liquid to flow from the Tank 19 area to the truck loading area. Additionally, no documentation that a liner had been placed under the truck loading area could be located.

99. 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)(1)(ii)], by not complying with the secondary containment requirements of Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.193].

100. According to the 3007 Response and observations made by the EPA at the time of the CEI, the Respondent failed to adequately conduct daily inspections of the hazardous waste tank system. The daily inspection logs do not appear to contain the required information. Specifically, daily inspection records dated June 14, 2013 to May 26, 2016 were reviewed. Of these inspections: 136 of the records were not available; 52 were received after they were due; 53 of the records indicate that no inspection was completed; 6 of the records were blank; and 5 of the records were only partially completed.

101. 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 tor 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)(ii)], by not complying with the inspection requirements of of Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. §§ 265.195(a), (b), (e), and (g)].

102. At the time of the CEI, the EPA observed that Respondent failed to ensure that the accumulation start date had been marked clearly on three containers of hazardous waste observed in the hall near the entrance to the basement.

103. 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)].

104. According to the 3007 Response, Respondent failed to properly train at least five employees and to maintain written job descriptions for positions responsible for managing hazardous waste.

105. 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)], by not complying with the personnel training requirements of Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. §§ 265.16(a)-(e)].

106. According to the 3007 Response and observations made by the EPA at the time of the CEI, the Respondent failed to properly maintain Tanks 40, 73, 74, and 75, and/or its components, to prevent the release of hazardous waste constituents. Records of repairs made following leaks identified during LDAR monitoring were not available to demonstrate that the problems had been addressed. The EPA observed Tank 40 to have caulk around the tank lid, which did not adequately seal the tank. Additionally, Tanks 73,

74, and 75 were closed using C-clamps which was not a part of the tanks' design.

107. 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)], 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].

108. According to the 3007 Response, the Respondent failed to make arrangements with the local emergency responders.

109. 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)], by not complying with the local authority arrangement requirements of Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.37].

110. According to the 3007 Response and observations made by the EPA at the time of the CEI, the Respondent failed to update the emergency call down list as required in the facility specific contingency plan.

111. 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)], by not complying with the contingency plan requirements of Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.54(d)].

V. TERMS OF AGREEMENT

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

112. 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.

113. Respondent neither admits nor denies the factual allegations and determinations set out in this CA/FO.

114. Respondent waives any right to contest the allegations and its right to appeal the proposed Final Order accompanying the Consent Agreement.

115. 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.*

116. 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.

117. 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.

118. 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.

119. Respondent, by signing this CA/FO, certifies that to the best of Respondent's knowledge, Respondent will be in compliance with RCRA and the authorized State hazardous waste program once it has complied with the requirements of this CA/FO.

120. The parties agree that compliance with the terms of this CA/FO shall resolve the violations alleged and the facts stipulated to in this CA/FO.

121. Each party will pay its own costs and attorneys' fees.

122. Respondent consents to the compliance actions and conditions specified in this CA/FO.

123. Respondent consents to perform the work described in Section VI and the Supplemental Environmental Project (SEP), including payment of any stipulated penalties, described in Section VII.

VI. WORK TO BE PERFORMED

124. Within sixty (60) days after the Effective Date of this CA/FO, Respondent shall develop a document ("BB Equipment Program") that includes or describes:

a. All valves, pumps, compressors, sampling connection system, open-ended valve or lines, or flanges or other connectors, and any control devices or systems that are regulated under Subpart BB as of the Effective Date of this CA/FO;
b. Leak definitions for Subpart BB units;
c. Monitoring frequencies of all regulated Subpart BB units;
d. A method for tracking repairs from discovery through completion to follow-up inspection;
e. Record-keeping procedures to comply with Subpart BB;
f. A tracking program or system that ensures that new pieces of equipment added to the facility are integrated into the BB Equipment Program and that pieces of

equipment that are taken out of service are removed from the BB Equipment Program;

g. The roles and responsibilities of all employee and contractor personnel assigned to monitoring Subpart BB functions at the facility;

h. How the facility plans to implement the BB Equipment Program; and

i. A statement that the Respondent shall review the BB Equipment Program document annually and update it as needed by no later than January 31 of each calendar year.

VII. SUPPLEMENTAL ENVIRONMENTAL PROJECT

125. Respondent shall undertake and complete the SEP described in Attachment A within 15 months of the effective date of this CA/FO.

126. This CA/FO shall not be constructed to constitute the EPA's endorsement of the equipment or technology to be purchased by Respondent in connection with the SEP undertaken pursuant to this CA/FO.

127. With regard to the SEP, Respondent hereby certifies the truth and accuracy of each of the following:

a. All cost information provided to the EPA in connection with the EPA's approval of the SEP described in Attachment A is complete and accurate and that Respondent in good faith estimates that the cost to implement the SEP is $2,789,644.00;

b. As of the date on which Respondent signs this CA/FO, Respondent is not required to perform or develop the SEP by any federal, state or local law or regulation; nor is Respondent required to perform or develop the SEP by any other agreement, grant or as injunctive relief ordered or awarded in any other action in any forum;

c. The SEP is not a project that Respondent was planning or intending to construct, perform, or implement other than in settlement of the claims resolved in this CA/FO;

d. Respondent has not received, and is not presently negotiating to receive, credit in any other enforcement action for this SEP;

e. Respondent will not receive reimbursement for any portion of the SEP from another person or entity;

f. For federal income tax purposes, Respondent agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP; and

g. Respondent is not a party to any open federal financial assistance transaction that is funding or could fund the same activity as the SEP described in Attachment A.

128. Respondent agrees that in order to receive credit for the SEP, it must fully and timely complete the SEP in accordance with Attachment A. If Respondent does not fully and timely complete the SEP in accordance with Attachment A, Respondent shall be required to pay stipulated penalties. The following stipulated penalties shall accrue per calendar

day for failure to fully and timely complete the SEP in accordance with Attachment A within the timeframe provided in Paragraph 125:

Penalty Per Calendar Day	Period of Noncompliance
$500	1st through 14th day
$750	15th through 30th day
$1000	31st day and beyond

The EPA may, in the unreviewable exercise of its discretion, reduce or waive these stipulated penalties otherwise due under this Settlement.

129. Respondent shall be required to submit reports to the EPA in accordance with the timeframes set forth in Attachment A. The EPA will notify Respondent electronically of receipt of such reports. If Respondent does not provide the progress reports to the EPA in accordance with the timeframes set forth in Attachment A, following receipt of notice from the EPA of such deficiencies, Respondent shall be required to pay stipulated penalties of Five Hundred Dollars ($500) per day until the EPA receives each progress report.

130. Within forty-five (45) calendar days of the completion of the SEP, Respondent shall submit a SEP Completion Report to the EPA. The SEP Completion Report shall provide evidence of the SEP completion and shall contain the following information:

a. A detailed description of the SEP as implemented;
b. Evidence of SEP completion;
c. A description of any operating problems encountered and the solutions thereto;
d. A report quantifying the benefits of the SEP, and how they were measured or estimated;
e. Itemized costs for the entire SEP and documentation, as set forth in Paragraph 131 of the CA/FO; and
f. Certification that the SEP has been fully implemented pursuant to the provisions of this CA/FO, as set forth in Paragraph 132.

131. In itemizing its costs for the SEP in the SEP Completion Report, Respondent shall clearly identify and provide acceptable documentation for all eligible SEP costs. Where the SEP Completion Report includes costs not eligible for SEP credit, those costs must be clearly identified as such. Eligible SEP costs include the cost of purchasing equipment, but does not include overhead, additional employee time and salary expended in purchasing the equipment, administrative expenses, and legal fees. For purposes of this paragraph, "acceptable documentation" includes invoices, purchase orders, or other documentation that specifically identifies and itemizes the individual costs of the goods/or services for which payment is being made. Cancelled drafts do not constitute acceptable documentation unless such drafts specifically identity and itemize the individual costs of the goods and/or services for which payment is being made. Upon request, Respondent

shall send the EPA any additional documentation concerning the costs associated with the timely and full completion of the SEP within ten (10) days of receipt of the request.

132. In the SEP Completion Report submitted to the EPA by Respondent, Respondent shall sign and certify by a principal executive officer as defined a 40 C.F.R. § 270.11(a)(3), under penalty of law, that the information contained in such document or report is true, accurate, and is not misleading by including the following statement in the SEP Completion Report:

> I certify under penalty of law that I have examined and am familiar with this information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

133. The EPA will notify Respondent in writing of receipt of the SEP Completion Report and, after review of the SEP Completion Report, notify Respondent of the following determinations:

a. The SEP Completion Report is acceptable, and the EPA has determined that the Respondent has timely and fully completed the SEP in accordance with the Consent Agreement; or

b. The SEP Completion Report is deficient. The EPA will provide a written description of the deficiencies in the Report, and inform Respondent that the EPA is unable to determine if the Respondent has timely and fully completed the SEP in accordance with the CAFO (Deficiency Response). Respondent will have thirty (30) calendar days to correct any deficiencies and send a revised SEP Completion Report to the EPA.

134. Upon receipt of Respondent's first revised SEP Completion Report, the EPA will review the SEP Completion Report and notify Respondent of the determination that the EPA has made as described in Paragraphs 133(a) or (b). Respondent will have a total of two opportunities to correct the deficiencies identified by the EPA in the SEP Completion Report. Respondent will have thirty (30) calendar days to correct any deficiencies and send a second revised SEP Completion Report to the EPA.

135. Upon receipt of Respondent's second revised SEP Completion Report, if required pursuant to Paragraph 134, the EPA will review the SEP Completion Report and notify Respondent of the determination that the EPA has made as described in Paragraphs 133(a) and (b). If the EPA determines that the SEP Completion Report is not acceptable and, therefore, Respondent has not timely and fully completed the SEP, Respondent shall be required to pay the penalty set forth in Paragraph 128.

136. If Respondent fails to timely submit the SEP Completion Report to the EPA, as required by Paragraph 130, or to submit a first and/or second revised SEP Completion Report if

required by Paragraphs 133 and 134, Respondent shall pay to the United States a stipulated penalty of Five Hundred Dollars ($500) a day until the SEP Completion Report is submitted to the EPA.

137. Respondent shall pay any civil penalties required under Section VI (Supplemental Environmental Project) within thirty (30) calendar days after receipt of a written demand for such penalties from the EPA. The method of payment shall be in accordance with the Section VII (Payment of Civil Penalty) Paragraphs 143-146.

138. The determination as to whether Respondent has timely and fully completed the SEP and timely and fully submitted the SEP Completion Report shall be in the sole discretion of the EPA, but such determination shall not be unreasonably delayed or withheld.

139. The EPA may, in the unreviewable exercise of its discretion, reduce or waive stipulated penalties otherwise due under this CA/FO.

140. The EPA may, in the unreviewable exercise of its discretion, give Respondent an extension of time to submit the SEP Progress Reports and the SEP Completion Report.

141. Respondent agrees that any public statement, oral or written, in print, film, or other media, made by Respondent making reference to the SEP under this CA/FO from the date of its execution of this CA/FO shall include the following language:

> "This project was undertaken in connection with the settlement of the enforcement action regarding Decostar Industries, Inc., taken on behalf of the U.S. Environmental Protection Agency to enforce federal laws."

142. Respondent shall submit all notices and reporting pertaining to the SEP required by the CA/FO to:

Larry L. Lamberth
Chief, Enforcement and Compliance Branch
Resource Conservation and Restoration Division
US EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8909

and

Stephen P. Smith
Associate Regional Counsel
Office of RCRA/CERCLA Legal Support
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

VIII. PAYMENT OF CIVIL PENALTY

143. Respondent consents to the payment of a civil penalty in the amount of three hundred seventy-seven thousand and nine hundred dollars ($377,900.00), which is to be paid within thirty (30) calendar days of the effective date of this CA/FO.

144. 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:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
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: Craig Steffen, (513) 487-2091
REX (Remittance Express): 1-866-234-5681

145. Respondent shall submit a copy of the payment to the following individuals:

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

And to:

Larry L. Lamberth
Chief, Enforcement and Compliance Branch
Resource Conservation and Restoration Division
US EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8909

146. 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 or stipulated 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 or stipulated 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 or a stipulated 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).

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

IX. DELAY IN PERFORMANCE/STIPULATED PENALTIES

148. If Respondent fails to comply with the provisions of this CA/FO, other than those in Section VII. Supplemental Environmental Projects, Respondent shall pay Stipulated Penalties as indicated below for each violation for each calendar day during which the violation occurs:

Penalty Per Calendar Day Per Violation	Period of Noncompliance
$250	1st through 6th day
$500	7th through 30th day
$750	31st through 60th day
$1,000	61st day and beyond

149. Subject to the other Paragraphs in this Section, all Stipulated Penalties begin to accrue on the day that complete performance is due, or a violation occurs, and continue to accrue through the final day of correction of the noncompliance, or the day the EPA submits its Statement of Position to the Director, RCR Division, EPA Region 4, pursuant to Section X (Dispute Resolution) of this CA/FO, whichever occurs first. Nothing herein shall prevent the simultaneous accrual of separate Stipulated Penalties for separate violations of this CA/FO which derive from Respondent's independent and distinguishable acts and/or omissions. Issuance and receipt of a notice of noncompliance is not a condition precedent to the accrual of Stipulated Penalties.

150. Accrued Stipulated Penalties shall become due and payable thirty (30) calendar days after demand by the EPA for their payment, and shall be payable in the manner discussed in Section VIII (Payment of the Civil Penalty). Respondent may dispute the EPA's assessment of Stipulated Penalties by invoking the dispute resolution procedures under Section X (Dispute Resolution). Except as provided in Section X (Dispute Resolution), the Stipulated Penalties in dispute shall continue to accrue in accordance with Paragraphs 128 and 129, but need not be paid, during the dispute resolution period. Respondent shall pay Stipulated Penalties and interest, if any, in accordance with the dispute resolution decision and/or agreement. Respondent shall submit such payment to the EPA within seven (7) calendar days of receipt of such resolution. The EPA in its discretion may waive or reduce any Stipulated Penalties assessed.

151. Neither the invocation of dispute resolution nor the payment of penalties shall alter in any way Respondent's obligation to comply with the terms and conditions of this CA/FO.

152. The Stipulated Penalties set forth in this Section do not preclude EPA from pursuing any other remedies or sanctions which may be available to the EPA by reason of Respondent's failure to comply with any of the terms and conditions of this CA/FO. However, all Stipulated Penalties which are paid by Respondent shall be off-set against any and all penalties for the same violation which the EPA may be entitled to collect as a result of other enforcement actions.

153. No payments under this Section shall be tax deductible for federal tax purposes.

X. DISPUTE RESOLUTION

154. The parties shall use their best efforts to informally and in good faith resolve all disputes or differences of opinion. The parties agree that the procedures contained in this Section are the sole procedures for resolving disputes arising under this CA/FO.

155. If Respondent disagrees, in whole or in part, with any written decision (Initial Written Decision) by the EPA pursuant to this CA/FO, Respondent shall notify the EPA of the dispute (Notice of Dispute) in writing within fourteen (14) calendar days of Respondent's receipt of the Initial Written Decision. The Notice of Dispute shall be mailed to:

Alan A. Annicella
Chief, Hazardous Waste Enforcement and Compliance Section
Enforcement and Compliance Branch
Resource Conservation and Restoration Division
U.S. EPA, Region 4
61 Forsyth St, SW
Atlanta, Georgia 30303

156. Respondent and the EPA shall attempt to resolve the dispute informally. The period for informal negotiations shall not exceed twenty-one (21) calendar days from the date of the Notice of Dispute, unless it is modified by written agreement of the parties to the dispute (Negotiation Period). The EPA agrees to confer in person or by telephone to resolve any such disagreement with Respondent as long as Respondent's request for a conference will not extend the Negotiation Period. The Negotiation Period may be modified by written agreement of the parties to the dispute.

157. If the parties cannot resolve the dispute informally pursuant to Paragraph 156, then the position advanced by the EPA shall be considered binding unless, within twenty-one (21) calendar days after the conclusion of the informal Negotiation Period, Respondent invokes the formal dispute resolution procedures by serving on the EPA at the address specified in Paragraph 155 and to the Director of the RCR Division, EPA Region 4, a written Statement of Position on the matter in dispute, including, but not limited to, the specific points of the dispute, the position Respondent claims should be adopted as consistent with the requirements of this CA/FO, the basis for Respondent's position, any factual data, analysis or opinion supporting that position and any supporting documentation relied upon by Respondent. If Respondent fails to follow any of the

requirements contained in this Paragraph, then it shall have waived its right to further consideration of the disputed issue.

158. Within twenty-one (21) calendar days after receipt of Respondent's Statement of Position, the EPA will serve on Respondent and to the Director of the RCR Division, EPA Region 4, its Statement of Position, including but not limited to any factual data, analysis or opinion supporting that position and any supporting documentation relied upon by the EPA.

159. Following receipt of both Statements of Position, the Director of the RCR Division, EPA Region 4, will issue a final written decision resolving the dispute, which sets forth the basis for EPA's decision. Such decision shall not be appealed further.

160. During the pendency of the dispute resolution process, unless there has been a written modification by the EPA of a compliance date, or excusable delay as defined in Section XI (Force Majeure and Excusable Delay), the existence of a dispute as defined in this Section and the EPA's consideration of matters placed into dispute shall not excuse, toll, or suspend any compliance obligation or deadline required pursuant to this CA/FO which is not directly in dispute. However, payment of Stipulated Penalties with respect to the disputed matter shall be stayed pending resolution of the dispute. Notwithstanding the stay of payment, Stipulated Penalties shall accrue in accordance with Paragraphs 128 and 129, unless Respondent prevails on the disputed issue, or the final decision-maker, at his or her discretion, reduces the amount of the accrued penalty upon a finding that Respondent had a good faith basis for invoking the dispute resolution process. Stipulated Penalties shall be assessed and paid as provided Section IX (Delay in Performance/Stipulated Penalties).

XI. FORCE MAJEURE AND EXCUSABLE DELAY

161. Force majeure, for purposes of this CA/FO, is defined as any event arising from causes not reasonably foreseen and beyond the control of Respondent or any person or entity controlled by Respondent, including but not limited to Respondent's contractors, that delays or prevents the timely performance of any obligation under this CA/FO despite Respondent's best efforts to fulfill such obligation. The requirement that Respondent exercise "best efforts to fulfill such obligation" shall include, but not be limited to, best efforts to anticipate any potential force majeure event and address it before, during, and after its occurrence, such that any delay or prevention of performance is minimized to the greatest extent possible. Force majeure does not include increased costs of the Work to be performed under this CA/FO; financial inability to complete the Work; minor precipitation events; or changed circumstances arising out of sale, lease, or transfer of Respondent's interest in any and/or all portions of the Facility.

162. If any event occurs or has occurred that may delay the performance of any obligation under this CA/FO, whether or not caused by a force majeure event, Respondent shall contact by telephone and communicate orally with the EPA's Project Coordinator or, in his or her absence, his or her Section Chief or, in the event both of the EPA's designated

representatives are unavailable, the Director of RCR Division, EPA Region 4, within seventy-two (72) hours of when Respondent first knew or should have known that the event might cause a delay. Within five (5) calendar days thereafter, Respondent shall provide to the EPA in writing the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; all other obligations affected by the force majeure event, and what measures, if any, taken or to be taken to minimize the effect of the event on those obligations; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; Respondent's rationale for attributing such delay to a force majeure event if it intends to assert such a claim; and a statement as to whether, in the opinion of Respondent, such event may cause or contribute to an endangerment to public health, welfare or the environment. Respondent shall include with any notice all available documentation supporting its claim that the delay was attributable to a force majeure event. Failure to comply with the above requirements shall preclude Respondent from asserting any claim of force majeure for that event, unless such failure is waived by the EPA at its discretion. Respondent shall be deemed to have notice of any circumstances of which its contractors had or should have had notice.

163. If the EPA determines that the delay or anticipated delay is attributable to a force majeure event, the time for performance of such obligation under this CA/FO that is affected by the force majeure event will be extended by the EPA for such time as the EPA determines is necessary to complete such obligation. An extension of the time for performance of such obligation affected by the force majeure event shall not, of itself, extend the time for performance of any other obligation, unless Respondent can demonstrate that more than one obligation was affected by the force majeure event. If the EPA determines that the delay or anticipated delay has been or will be caused by a force majeure event, the EPA will notify Respondent in writing of the length of the extension, if any, for performance of such obligations affected by the force majeure event.

164. If the EPA disagrees with Respondent's assertion of a force majeure event, Respondent may elect to invoke the dispute resolution provision, and shall follow the time frames set forth in Section X (Dispute Resolution). In any such proceeding, Respondent shall have the burden of demonstrating by a preponderance of the evidence that the delay or anticipated delay has been or will be caused by a force majeure event, that the duration of the delay or the extension sought was or will be warranted under the circumstances, that best efforts were exercised to avoid and mitigate the effects of the delay, and that Respondent complied with the requirements of this Section. If Respondent satisfies this burden, the time for performance of such obligation will be extended by the EPA for such time as is necessary to complete such obligation.

XII. PARTIES BOUND

165. 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 connection with any activity subject to this CA/FO.

166. 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.

167. 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.

XIII. RESERVATION OF RIGHTS

168. 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.

169. 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.

170. 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.

XIV. OTHER APPLICABLE LAWS

171. 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.

XV. SERVICE OF DOCUMENTS

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

Stephen P. Smith
Associate Regional Counsel
Office of RCRA/CERCLA Legal Support
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
(404) 562-9572

smith.stephen@epa.gov

173. 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:

Doug S. Arnold
Alston & Bird LLP
One Atlantic Center
1201 W Peachtree Street, Suite 4000
Atlanta, Georgia 30309
(404) 881-7637
doug.arnold@alston.com

XVI. SEVERABILITY

174. 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.

175. The terms, conditions, and compliance requirements of this CA/FO may not be modified or amended except upon the written agreement of both parties, and approval of the Regional Judicial Officer.

XVII. EFFECTIVE DATE

176. 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 Decostar Industries, Inc. Docket No. **RCRA-04-2018-4000(b):**

AGREED AND CONSENTED TO:

Decostar Industries, Inc.

By: [redacted] Dated: 06/01/18

Fadi Chabbouh
General Manager

United States Environmental Protection Agency

By: [redacted] Dated: 6/6/18

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

Attachment A
Supplemental Environmental Projects

I. The purpose of this Supplemental Environmental Project (SEP) is to reduce the environmental impact of certain paint coating operations at Respondent's facility. Reductions will be made through modifications to the coating applicator configuration in Basecoat Zone 2 of Paint Line 1. The SEP will be completed for an estimated $2,789,644.00. The estimated environmental and pollution prevention benefits include: a 4,130-pound reduction in annual hazardous waste generation; a 1,385-pound reduction in annual hazardous air pollution emissions; and a 1,972-pound reduction in annual volatile organic emissions.

Currently, the Basecoat Zone 2 robots and paint applicators are limited to linear spray footprints and bidirectional spray patterns. This SEP will replace existing robots and paint applicators with Fanuc P250 composite arm robots and Durr EcoBell 3 rotary paint applicators, allowing for circular spray footprints and consistent coating application along omnidirectional spray patterns. These modifications would increase transfer efficiency in both solvent-borne and water-borne coating processes.

In addition, the current Basecoat Line 2 robots and applicators cannot spray water-borne paint electrostatically. Painting electrostatically increases transfer efficiency by charging the atomized paint particles and creating attractive forces between the paint particles and grounded components receiving coating. Additional Durr EcoBell rotary applicators, paired with Fanuc P250 composite arm robots, will be able to spray both solvent-borne coatings and water-borne coatings electrostatically, leading to even greater transfer efficiency for water-borne coating applications.

The SEP shall include:

- New Composite Arm Robots and Controllers
- New Fluid Control, System Equipment and Services
- New Applicators and Controllers
- Redesigned New Charge Rings
- Recirculation System Modifications and Stacks
- New Fluid Cabinets and Reconfiguration of the Existing Cabinets
- Structural Steel, Electrical and Pneumatic services

II. Reporting. Thirty (30) days after the end of each three-month period until the submission of the SEP Completion Report, Respondent will submit a SEP Status Report detailing the implementation status of the scope described above, as well as the eligible SEP expenses to-date.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

IN THE MATTER OF:	)	DOCKET NO.: RCRA-04-2018-4000(b)
	)	
Decostar Industries, Inc.	)	Proceeding Under Section 3008(a) of the
1 Decoma Drive	)	Resource Conservation and Recovery Act,
Carrollton, Georgia 30117	)	42 U.S.C. § 6928(a)
	)	
EPA ID No.: GAR000034033	)	
	)	
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. The 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 7th day of June, 2018.

BY: [redacted]
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 Decostar Industries, Inc., Docket Number: RCRA-04-2018-4000(b), and have served the parties listed below in the manner indicated:

Stephen Smith
Associate Regional Counsel
Office of RCRA/CERCLA Legal Support
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

(Via EPA's electronic mail)

Quantindra Smith
Enforcement and Compliance Branch
Resource Conservation and Restoration Division
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

(Via EPA's electronic mail)

Douglas S. Arnold
Alston & Bird LLP
One Atlantic Center
1201 W Peachtree Street, Suite 4000
Atlanta, Georgia 30309

(Via Certified Mail - Return Receipt Requested)

Date: 6-12-18

[redacted]

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