

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of:

Giant Resource Recovery – Sumter, Inc.,
755 Industrial Road
Sumter, South Carolina 29150
EPA ID No.: SCD036275626

Respondent

and

Nova Molecular Sumter, LLC
749 Industrial Road
Sumter, South Carolina 29150
EPA ID No.: SCR000778381

Respondent.

Docket No. **RCRA-04-2022-2108(b)**

Proceeding Under Section 3008(a) of the
Resource Conservation and Recovery Act,
42 U.S.C. § 6928(a)

CONSENT AGREEMENT**I. NATURE OF ACTION**

1. This is a civil administrative action for penalties and injunctive relief brought under Section 3008(a) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a) (RCRA or the Act) and Sections 22.13(b) and 22.18 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at Title 40 of the Code of Federal Regulations (C.F.R.), Part 22.
2. This Consent Agreement and the attached Final Order shall collectively be referred to as the CAFO.
3. Having found that settlement is consistent with the provisions and objectives of the Act and applicable regulations, the Parties have agreed to settle this action pursuant to 40 C.F.R. § 22.18 and consent to the entry of this CAFO without adjudication of any issues of law or fact herein.

II. PARTIES

4. Complainant is the Chief of the Chemical Safety and Land Enforcement Branch, Enforcement and Compliance Assurance Division, United States Environmental Protection Agency (EPA) Region

4, who has been delegated the authority on behalf of the Administrator of the EPA to enter into this CAFO pursuant to 40 C.F.R. Part 22 and Section 3008(a) of the Act.

5. Respondent Giant Resource Recovery – Sumter, Inc. (Respondent GRR or GRR) is a corporation incorporated under the laws of the State of South Carolina. This proceeding pertains to Respondent’s facility located at 755 Industrial Road, Sumter, South Carolina (the Facility).
6. Respondent Nova Molecular Sumter, LLC (Respondent Nova or Nova) is a limited liability company organized under the laws of the State of Texas. Respondent Nova is an additional operator of certain hazardous waste storage tanks at the Facility.

III. GOVERNING LAW

7. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the State of South Carolina (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 South Carolina Hazardous Waste Management Act (SCHWMA), S.C. Code Ann. § 44-56-10 *et seq.* and S.C. Code Ann. Regs. 61-79.260 through 270, and R.61-79.273.
8. 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.
9. 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.
10. 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.
11. 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 CAFO.
12. Sections 44-56-30 and 44-56-35 of the SCHWMA, S.C. Code Ann. §§ 44-56-30 and 44-56-35 [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 S.C. Code Ann. Regs. 61-79.262 [40 C.F.R. Part 262].
13. Section 44-56-60(a)(2) and (b) of the SCHWMA, S.C. Code Ann. § 44-56-60(a)(2) and (b) [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 S.C. Code Ann. Regs. 61-79.264 (permitted) and R.61-79.265 (interim status) [40 C.F.R. Parts 264 (permitted) and 265 (interim status)].

14. Pursuant to Hazardous Waste Permit Number SCD036275626 (the “RCRA Permit”), Section I.A. – Effect of Permit, Respondent GRR and Respondent Nova (individually or collectively “the Permittee”) shall treat and store hazardous waste and perform corrective action in accordance with the Conditions of the RCRA Permit.
15. Pursuant to S.C. Code Ann. Regs. 61-79.261.2 [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.
16. Pursuant to S.C. Code Ann. Regs. 61-79.261.3 [40 C.F.R. § 261.3], a solid waste is a “hazardous waste” if it meets any of the criteria set forth in S.C. Code Ann. Regs. 61-79.261.3(a)(2) [40 C.F.R. § 261.3(a)(2)] and is not otherwise excluded from regulation as a hazardous waste by S.C. Code Ann. Regs. 61-79.261.4(b) [40 C.F.R. § 261.4(b)].
17. Pursuant to S.C. Code Ann. Regs. 61-79.261.3(a)(2)(i) and R.61-79.261.20 [40 C.F.R. §§ 261.3(a)(2)(i) and 261.20], solid wastes that exhibit any of the characteristics identified in S.C. Code Ann. Regs. 61-79.261.21 through 24 [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 S.C. Code Ann. Regs. 61-79.261.20 and R.61-79.261.21 [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 S.C. Code Ann. Regs. 61-79.261.20 and R.61-79.261.22 [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.
 - c. Pursuant to S.C. Code Ann. Regs. 61-79.261.20 and R.61-79.261.23 [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.
 - d. Pursuant to S.C. Code Ann. Regs. 61-79.261.20 and R.61-79.261.24 [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.
18. Pursuant to S.C. Code Ann. Regs. 61-79.261.3(a)(2)(ii) and R.61-79.261.30 [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 S.C. Code Ann. Regs. 61-79.261, Subpart D [40 C.F.R. Part 261, Subpart D].
 - a. Listed hazardous wastes include the F-Listed wastes from nonspecific sources identified in S.C. Code Ann. Regs. 61-79.261.31 [40 C.F.R. § 261.31].
 - b. Listed hazardous wastes include the K-Listed wastes from specific sources identified in S.C. Code Ann. Regs. 61-79.261.32 [40 C.F.R. § 261.32].
 - c. Listed hazardous wastes include the P- and U-Listed wastes identified in S.C. Code Ann. Regs. 61-79.261.33 [40 C.F.R. § 261.33].

19. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [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 S.C. Code Ann. Regs. 61-79.261 [40 C.F.R. Part 261], or whose act first causes a hazardous waste to become subject to regulation.
20. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [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.”
21. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], a “person” includes an individual, trust, firm, joint stock company, Federal Agency, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body.
22. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [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.
23. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [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.
24. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], “treatment” is defined as 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 recover energy or material resources from the waste, or so as to render such waste nonhazardous, or less hazardous; safer to transport, store, or dispose of; or amenable for recovery, amenable for storage, or reduced in volume.
25. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], a “tank” is defined as a stationary device, designed to contain an accumulation of hazardous waste which is constructed primarily of non-earthen materials which provide structural support.
26. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], a “tank system” is defined as a hazardous waste storage or treatment tank and its associated ancillary equipment and containment system.
27. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], “ancillary equipment” is defined as any device including, but not limited to, such devices as piping, fittings, flanges, valves, and pumps, that is used to distribute, meter, or control the flow of hazardous waste from its point of generation to a storage or treatment tank(s), between hazardous waste storage and treatment tanks to a point of disposal onsite, or to a point of shipment for disposal offsite.
28. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], a “miscellaneous unit” is defined as a hazardous waste management unit where hazardous waste is treated, stored, or disposed of and that is not a container, tank, surface impoundment, pile, land treatment unit, landfill, incinerator, boiler, industrial furnace, underground injection well with appropriate technical standards under 40 C.F.R. Part 146, containment building, corrective action management

unit, unit eligible for a research, development, and demonstration permit under S.C. Code Ann. Regs. 61-79.270.65 [40 C.F.R. § 270.65], or staging pile.

29. Pursuant to the RCRA Permit, Section I.B.3. – Permit Expiration, the RCRA Permit and all RCRA Permit Conditions will remain in effect beyond the permit’s expiration date, if the Permittee has submitted a timely, complete application and, through no fault of the Permittee, South Carolina Department of Health and Environmental Control (SCDHEC) has not issued a new permit, as set forth in 25 S.C. Code Ann. Regs. 61-79.270.30(f) [40 C.F.R. § 270.30(f)].
30. Pursuant to the RCRA Permit, Section I.E.1. - Duty to Comply, the Permittee shall comply with the Approved Permit Application and all Conditions of this Permit, except to the extent and for the duration such noncompliance is authorized by an emergency permit. Any permit noncompliance, other than noncompliance authorized by an emergency permit, constitutes a violation of RCRA and the SCHWMA and is grounds for enforcement action, permit termination, revocation and reissuance, modification, or denial of a permit renewal application (25 S.C. Code Ann. Regs. 61-79.270.30(a) [40 C.F.R. § 270.30(a)]). The RCRA Permit, Section VIII.A. - Module Highlights, references a complete description of the container storage area found in Section D (page D-7) of the Approved Permit Application, which states that containers are inspected for compliance with the RCRA / SCHWMA requirements after unloading, including proper labeling and condition. Incoming containers whose labels are damaged or incorrect are labeled with the statement “Hazardous Waste” and the appropriate EPA hazard waste number.
31. Pursuant to the RCRA Permit, Section VIII.B.2. - Storage Prohibition, which incorporates 25 S.C. Code Ann. Regs. 61-79.268.50(a)(2)(i) [40 C.F.R. § 268.50(a)(2)(i)], the storage of hazardous wastes restricted from land disposal is prohibited unless an owner / operator of a hazardous waste treatment, storage or disposal facility stores such wastes solely for the purpose of the accumulation of such quantities of hazardous waste as necessary to facilitate proper recovery, treatment or disposal and each container is clearly marked to identify its contents with the applicable EPA hazardous waste numbers, an indication of the hazards of the contents, and the date each period of accumulation begins.
32. Pursuant to the RCRA Permit, Section III.C. - Condition of Containers, if a container holding hazardous waste is not in good condition (e.g., severe rusting, apparent structural defects) or if it begins to leak, the Permittee shall transfer the hazardous waste from such container to a container that is in good condition or otherwise manage the waste in compliance with the conditions of this Permit and the requirements of 25 S.C. Code Ann. Regs. 61-79.264 Subpart I (25 S.C. Code Ann. Regs. 61-79.264.171 [40 C.F.R. §264.171]).
33. Pursuant to the RCRA Permit, Section III.E. - Management of Containers, the Permittee shall keep all containers closed during storage, except when it is necessary to add or remove waste, and shall not open, handle, or store containers in a manner that may rupture the container or cause it to leak (25 S.C. Code Ann. Regs. 61-79.264.173 [40 C.F.R. §264.173]).
34. Pursuant to the RCRA Permit, Section IV.C.1. – Secondary Containment and Tank System Integrity Assessments, the Permittee shall design, construct and operate the secondary containment system and ancillary equipment with the detailed design plans and descriptions contained in Section D of the Approved Permit Application (25 S.C. Code Ann. Regs. 61-79.264.193(b)-(f) [40 C.F.R. §264.193(b)-(f)]). Specifically, Section D (page D-26) of the

Approved Permit Application states that an impervious coating has been applied to the concrete slab and wall surrounding the tanks (page D-31); that the secondary containment for the 30 Series Tanks is equipped with an epoxy polyamide coating with fiberglass matting (or a functionally equivalent replacement).

35. Pursuant to the RCRA Permit, Section IV.C.2. - Secondary Containment and Tank System Integrity Assessments, the Permittee shall maintain all the secondary containment systems free of cracks or gaps and sufficiently impervious to contain leaks, spills, and accumulated precipitation until removed (25 S.C. Code Ann. Regs. 61-79.264.193(b) and (e) [40 C.F.R. § 264.193(b) and (e)]).
36. Pursuant to the RCRA Permit, Section II.D. – General Inspection Requirements, the Permittee shall follow the general inspection requirements set out in 25 S.C. Code Ann. Regs. 61-79.264.15 [40 C.F.R. § 264.15] and Section F of the Approved Permit Application. Section F-2a – General Inspection Requirements and 25 S.C. Code Ann. Regs. 61-79.264.15(d) [40 C.F.R. §264.15(d)] state that the information to be included on the inspection log sheet is the inspector’s name, the time and date of the inspection, the items to be inspected, deficiencies encountered, the status of each item, and any observations that may be pertinent to the overall condition of the inspected item.
37. Pursuant to the RCRA Permit, Section II.D. – General Inspection Requirements, the Permittee shall follow the general inspection requirements set out in 25 S.C. Code Ann. Regs. 61-79.264.15 [40 C.F.R. § 264.15] and Section F of the Approved Permit Application. The Permittee shall remedy any deterioration or malfunction discovered by an inspection as required by 25 S.C. Code Ann. Regs. 61-79.264.15(c) [40 C.F.R. § 264.15(c)] and the Permit application.
38. Pursuant to the RCRA Permit, Section II.D. – General Inspection Requirements, the Permittee shall follow the general inspection requirements set out in 25 S.C. Code Ann. Regs. 61-79.264.15 [40 C.F.R. § 264.15] and Section F of the Approved Permit Application. Section F-2c – Remedial Action (Page F-7) states that, if a detected deficiency cannot be corrected immediately, the following actions will be taken: (b) establish the corrective action to be taken and describe on the inspection log; (c) assign the corrective action to a specific person and note the person’s name on the log or include a work order number; (d) establish an appropriate time period for the corrective action to be completed considering the nature of the deficiency; and (e) follow up on the assigned date for completion, note that repairs have been completed on the inspection form.
39. Pursuant to the RCRA Permit, Section II.G. – Personnel Training, the Permittee shall conduct personnel training, as required by 25 S.C. Code Ann. Regs. 61-79.264.16 [40 C.F.R. § 264.16]. This training shall follow the outline described in Section H of the Approved Permit Application. Section H-1b - Training Content, Frequency, and Techniques 1. Initial Overall Training states that prior to assuming unsupervised work duties and within the first 6 months of hire, all new GRR employees involved with hazardous waste management and facility operation must complete training modules designed to introduce employees to facility layout and operations (Facility Orientation).
40. Pursuant to the RCRA Permit, Section II.G. – Personnel Training, the Permittee shall conduct personnel training, as required by 25 S.C. Code Ann. Regs. 61-79.264.16 [40 C.F.R. § 264.16]. This training shall follow the outline described in Section H of the Approved Permit Application.

Section H-1c - Relevance of Training to Job Position states that all personnel receive contingency plan training.

41. Pursuant to the RCRA Permit, Section I.A. - Effect of Permit, any storage, treatment, and/or disposal of hazardous waste not authorized in this Permit is prohibited, except as allowed by the regulations.
42. Pursuant to the RCRA Permit, Section I.E.1. - Duty to Comply, the Permittee shall comply with the Approved Permit Application and all Conditions of this Permit, except to the extent and for the duration such noncompliance is authorized by an emergency permit. Any permit noncompliance, other than noncompliance authorized by an emergency permit, constitutes a violation of RCRA and the South Carolina Hazardous Waste Management Act and is grounds for enforcement action, permit termination, revocation and reissuance, modification, or denial of a permit renewal application (25 S.C. Code Ann. Regs. 61-79.270.30(a) [40 C.F.R. § 270.30(a)]). The RCRA Permit, Section III.A. - Module Highlights references a complete description of the container storage area found in Section D (page D-6) of the Approved Permit Application, which states that GRR typically uses bar code scanning system as a means of managing containers through the facility.
43. Pursuant to the RCRA Permit, Section II.A. - Design and Operation of the Facility, the Permittee shall construct, maintain and operate the facility in a manner to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment, as required by 25 S.C. Code Ann. Regs. 61.79-264.31 [40 C.F.R. § 264.31].
44. Pursuant to the RCRA Permit, Section I.E.6. - Proper Operation and Maintenance, the Permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Permittee to achieve compliance with the Conditions of this Permit. Proper operation and maintenance include effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of a backup or auxiliary facilities or similar systems only when necessary to achieve compliance with the Conditions of this Permit (25 S.C. Code Ann. Regs. 61-79.270.30(e) [40 C.F.R. § 270.30(e)]).
45. Pursuant to the RCRA Permit, Section X.D.1. - Operation, the Permittee shall operate the Hydropulper Unit System as specified in Section D-7 of the Approved Permit Application. Specifically, Section D-7 (page D-47) of the Approved Permit Application states that spills are visually detected and removed as they occur. The Permittee shall operate and maintain the Hydropulper Unit System in a manner such that prevents releases that may have adverse effects on human health or the environment due to the migration of waste constituents to the air.
46. Pursuant to the RCRA Permit, Section X.E. - Response to Leaks or Spills, in the event of a leak or spill from the Hydropulper Unit System, from a secondary containment system, or if a system becomes unfit for continued use, the Permittee shall remove the system from service immediately and (1) stop the flow of hazardous waste into the system and inspect the Hydropulper Unit System to determine the cause of the release; (2) remove waste accumulated precipitation from the system within 24 hours of the detection of the leak to prevent further release and to allow inspection and

repair of the system; (4)(a) for a release caused by a spill that has not damaged the integrity of the system, the Permittee shall remove the released waste and make any necessary repairs to fully restore the integrity of the system before returning the Hydropulper Unit System to service.

47. Pursuant to the RCRA Permit, Section X.C.1. - Miscellaneous Unit with Secondary Containment, the Permittee shall design, construct, and operate the secondary containment system and ancillary equipment in accordance with the detailed design plans and descriptions contained in Section D-7 of the Approved Permit Application (25 S.C. Code Ann. Regs. 61-79.264.193(b)-(f) and 264.601(a)-(c) [40 C.F.R. § 264.193(b)-(f) and 264.601(a)-(c)]). Specifically, Section D-7 (page D-47) of the Approved Permit Application states that spills are visually detected and removed as they occur.
48. Pursuant to the RCRA Permit, Section IX.B. - Emission Control Technology, the Permittee shall install and maintain all regulated units and associated emission control technology in accordance with the detailed plans, schedules, information and reports as contained in the Section M of the Part B Permit Application. Section M-3b - Methods of Compliance with Standards, 2. Miscellaneous (Hydropulper Unit System) (page M-9) states that transfers of hazardous waste from containers to the Hydropulper vessel are performed in a manner to minimize emissions.
49. Pursuant to the RCRA Permit, Section I.E.9(c) – Monitoring and Records, which incorporates 25 S.C. Code Ann. Regs. 61-270.30(j)(3) [40 C.F.R. § 270.30(j)(3)], records of monitoring information shall specify the dates, exact place, and times of sampling or measurements; the individuals who performed the sampling or measurements; the dates analyses were performed; the individuals who performed the analyses; the analytical techniques or methods used; and the results of such analyses.
50. Pursuant to the RCRA Permit, Section IX.B. – Emission Control Technology, which incorporates 25 S.C. Code Ann. Regs. 61-79.264.1084(k)(1) [40 C.F.R. § 264.1084(k)(1)], the owner or operator shall make first efforts at repair of each defect detected during an inspection no later than 5 calendar days after detection, and repair shall be completed as soon as possible but no later than 45 calendar days after detection.
51. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 262.10], a Large Quantity Generator (LQG) is a generator who generates greater than or equal to 1,000 kilograms (2200 lbs) of non-acute hazardous waste in a calendar month.
52. Pursuant to 25 S.C. Code Ann. Regs. 61-79.262.17 [40 C.F.R. § 262.17], a LQG may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, as required by Section 44-56-60(a)(2) and (b)(3) of the SCHWMA, S.C. Code Ann. § 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925], provided that the generator complies with the conditions listed in 25 S.C. Code Ann. Regs. 61-79.262.17 [40 C.F.R. § 262.17] (hereinafter referred to as the “LQG Permit Exemption”).
53. Pursuant to 25 S.C. Code Ann. Regs. 61-79.262.17(a)(5)(i)(B) [40 C.F.R. § 262.17(a)(5)(i)(B)], which is a condition of the LQG Permit Exemption, a generator is required to mark or label containers with an indication of the hazards of the contents.
54. Pursuant to 25 S.C. Code Ann. Regs. 61-79.262.15(a) [40 C.F.R. § 262.15(a)], a generator may accumulate as much as 55 gallons of non-acute 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 44-56-60(a)(2) and (b)(3) of the SCHWMA, S.C. Code Ann. § 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925], and without complying with 25 S.C. Code Ann. Regs. 61-79.262.16(b) or R.61-79.262.17(a) [40 C.F.R. § 262.16(b) or § 262.17(a)], except as required in 25 S.C. Code Ann. Regs. 61-79.262.15(a)(7) and (8) [40 C.F.R. § 262.15(a)(7) and (8)], provided that the generator complies with the satellite accumulation area (SAA) conditions listed in 25 S.C. Code Ann. Regs. 61-79.262.15(a) [40 C.F.R. § 262.15(a)] (hereinafter referred to as the “SAA Permit Exemption”).

55. Pursuant to 25 S.C. Code Ann. Regs. 61-79.262.15(a)(5)(ii) [40 C.F.R. § 262.15(a)(5)(ii)], which is a condition of the SAA Permit Exemption, a generator is required to mark or label its containers with an indication of the hazards of the contents.

IV. FINDINGS OF FACTS

56. Respondents are each a “person” as defined in S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10].
57. Respondent GRR owns and operates a commercial hazardous waste management facility on approximately nine acres of an approximately 18-acre site in Sumter, South Carolina. Respondent Nova is an additional operator of several hazardous waste tanks at the Facility. The recognized industrial waste services and capabilities available from GRR at the Facility include: fuel blending of hazardous and non-hazardous wastes; non-hazardous solid waste processing for landfill disposal and waste-to-energy; non-hazardous waste processing by treatment and discharge to a publicly owned treatment works or stabilizing and landfill disposal; hazardous waste collection and bulking; industrial oil collection and processing for fuels blending or resale; laboratory services; processing of high temperature wastes and wastes requiring special handling; and collection and processing of solid wastes to be sent to incinerators for burning or to kilns for energy recovery.
58. Respondent Nova operates a solvent recovery process on a parcel of land at the Facility leased from Respondent GRR. The recognized industrial waste services and capabilities available from Respondent Nova include solvent recovery/reclamation and product distillation.
59. On May 5, 2009, Respondent GRR submitted a RCRA permit application to the State of South Carolina, which has been subsequently modified a number of times. The initial submittal and all subsequent modifications are collectively referred to as “the RCRA Permit Application”.
60. On June 1, 2011, SCDHEC issued the RCRA Permit, which sets forth the conditions for treatment and storage of hazardous waste in tanks and containers, to Respondent GRR. The RCRA Permit became effective on July 1, 2011 and expired on July 1, 2021.
61. In 2014, the RCRA Permit was modified pursuant to 25 S.C. Code Ann. Regs. 61-79.270.42 [40 C.F.R. § 270.42]. The RCRA Permit modification, which included the addition of Respondent Nova as an additional operator, specifically a joint operator of storage tanks 1741, 1742, 1743, 1746, 1747, 1735A, and 1736A at the Facility, became effective in August 2014.

62. On October 9, 2020, Respondents submitted a RCRA Permit Renewal Application. Although SCDHEC has not issued a new permit, the RCRA Permit and all RCRA Permit Conditions remain in effect pursuant to the RCRA Permit, Section I.B.3. – Permit Expiration.
63. On March 31, 2021, the RCRA Permit was modified pursuant to 25 S.C. Code Ann. Regs. 61-79.270.42 [40 C.F.R. § 270.42)]. The RCRA Permit modification, which included the addition of a Subpart X Miscellaneous Hydropulper Unit, became effective on April 16, 2021.
64. Respondent GRR is the “owner/operator” of a “facility” located at 755 Industrial Road, Sumter, South Carolina, as those terms are defined in S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10].
65. Respondent Nova is an additional “operator” of several tanks at the “facility” located at 755 Industrial Road, Sumter, South Carolina, as those terms are defined in S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10].
66. Respondents are each a “generator” of “hazardous waste” as those terms are defined in S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10] and S.C. Code Ann. Regs. 61-79.261.3 [40 C.F.R. § 261.3].
67. Respondent GRR is a large quantity generator of hazardous waste with the EPA ID Number SCD036275626, and the owner and an operator of the Facility, a permitted hazardous waste treatment, storage and disposal facility with the RCRA Permit Number that corresponds to the same EPA ID Number, i.e., SCD036275626.
68. Respondent Nova is a large quantity generator of hazardous waste; its generator ID is EPA ID Number SCR000778381. Respondent Nova is also an operator of tanks 1741, 1742, 1743, 1746, 1747 (“40 series tanks”), and 1735A and 1736A (“30 series tanks”) located at the Facility, a permitted hazardous waste treatment, storage and disposal facility with the RCRA Permit Number SCD036275626.
69. On May 4 and 5, 2021 and June 24, 2021, inspectors with the EPA and with SCDHEC conducted a compliance evaluation inspection (CEI) at the Facility. The EPA’s findings of the CEI were documented in a Report mailed to Respondents, dated September 8, 2021.
70. In a letter to SCDHEC dated August 6, 2021, Respondent GRR submitted documents that were requested during the CEI.
71. On October 15, 2021, Respondents submitted a written response to the EPA’s Report.
72. At the time of the CEI, the inspectors observed the following containers of hazardous waste solids containing xylene and toluene in Respondent GRR’s SAAs: two 55-gallon drums, which were not marked with an indication of the hazards of their contents, and one 55-gallon drum, which was marked with a DOT Class 9 hazard placard, but not with an indication that the contents were flammable or toxic.
73. At the time of the CEI, the inspectors observed the following container of hazardous waste solids containing xylene and toluene in Respondent Nova’s SAA: one 55-gallon drum, which was

marked with a DOT Class 9 hazard placard, but not with an indication that the contents were flammable or toxic.

74. At the time of the CEI, the inspectors observed the following containers of hazardous waste in Respondent GRR's central accumulation areas (CAAs): five 40-yard roll-off containers, which were not marked with an indication of the hazards of their contents, and one 55-gallon drum, which was labeled with a DOT Class 9 hazard placard, but not marked to indicate that the contents were flammable or toxic.
75. At the time of the CEI, the inspectors observed the following containers of hazardous waste in Respondent GRR's permitted container storage areas: one 55-gallon drum, which was not marked with the generator information, the EPA hazardous waste number(s), or an accumulation start date; one supersack, which was not labeled with the words "hazardous waste;" one overpack, which was not labeled with the words "hazardous waste," the EPA hazardous waste number(s), an indication of the hazards, or an accumulation start date; four 55-gallon drums, which were marked to indicate that the contents were flammable but not marked to indicate that the contents were toxic; and four 55-gallon drums, which were marked with a Class 9 DOT hazard placard, but not marked to indicate that the contents were flammable or toxic.
76. At the time of the CEI, the inspectors observed the following containers of hazardous waste in Respondent GRR's permitted container storage areas: one tote, which had a large hole cut in the top; one 55-gallon drum, which was leaking; one 55-gallon drum, which had a small hole in the top; one 55-gallon drum, which was missing a small bung; and one tote, which was missing a cap.
77. At the time of the CEI, the inspectors observed that the secondary containment for Respondents' permitted tank storage area SA-2 had areas with cracks in the surface and areas with peeled and missing coating.
78. At the time of the CEI, the inspectors observed that the secondary containment for Respondents' permitted tank storage area SA-4 had areas with cracks in the coating.
79. At the time of the CEI, the inspectors reviewed Respondent GRR's records of inspection which did not identify any deficiencies with the condition of the secondary containment area in SA-2 or describe any corrective actions to be taken in that area.
80. At the time of the CEI, the inspectors reviewed Respondent Nova's records of inspection which did identify deficiencies with the condition of the secondary containment area in SA-2 but did not describe any corrective actions to be taken in that area.
81. At the time of the CEI, the inspectors reviewed Respondent GRR's records of hazardous waste training which did not include Facility Orientation training or contingency plan training for one employee who had been working at the Facility for greater than six months and had assumed unsupervised work duties at the Facility.
82. At the time of the CEI, the inspectors observed three tractor trailers which contained drums of hazardous waste that had been generated at customer facilities and received by the Facility for storage and / or treatment on-site, in Respondent GRR's Roll-off Container CAA.

83. At the time of the CEI, the inspectors observed that Respondent GRR was manually tracking containers received and managed at the Facility, and that the Facility did not have a barcoding system as described in the RCRA Permit Application.
84. At the time of the CEI, the inspectors observed dried hazardous waste that had splashed, spilled or leaked onto the wall and the floor in Respondent GRR's Solid Fuel Consolidation area in the permitted container storage area SA-5.
85. At the time of the CEI, the inspectors observed significant volumes of spilled or leaked hazardous waste on the vessel, decking, rails, conveyor, and surrounding area of the Respondent GRR's permitted Subpart X Hydropulper Unit. On August 3, 2022, GRR submitted a request for a Temporary Authorization (TA) pursuant to 25 S.C. Code Ann. Regs. 61-79.270.42(e) [40 C.F.R. § 270.42(e)] to construct and operate a new material conveyance system to the Hydropulper Unit. GRR's request stated that the new material conveyance system will allow GRR the ability to efficiently process liquid, sludge, and semi-solid hazardous waste material while minimizing potential spillage, improving housekeeping in and around the unit, and improving operations by reducing mechanically-induced and housekeeping downtime. SCDHEC approved this TA on August 30, 2022.
86. At the time of the CEI, Respondents' Subpart BB air monitoring records did not include the time or instrument reading for each monitoring event, and Respondent Nova's records of Subpart BB air monitoring conducted on January 15, 2021 did not include the name or signature of the person conducting that air monitoring event.
87. At the time of the CEI, the inspectors noted that Respondent GRR detected five leaks during a Subpart CC inspection event conducted on November 17, 2020. A work order submitted with the documents provided on August 6, 2021, indicated that Respondent GRR's first attempt at repair for those leaks was conducted on December 8, 2020.

V. ALLEGED VIOLATIONS

88. Respondent GRR managed containers of hazardous waste, which were not marked with an indication of the hazards of their contents, in SAAs. The EPA therefore alleges that Respondent GRR violated Section 44-56-60(a)(2) and (b) of the SCHWMA, S.C. Code Ann. § 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing waste without a permit or interim status, because Respondent GRR failed to mark or label its containers with an indication of the hazards of the contents as required by 25 S.C. Code Ann. Regs. 61-79.262.15(a)(5)(ii) [40 C.F.R. § 262.15(a)(5)(ii)], which is a condition of the SAA Permit Exemption.
89. Respondent Nova managed one container of hazardous waste, which was not marked with an indication of the hazards of its contents, in a SAA. The EPA therefore alleges that Respondent Nova violated Section 44-56-60(a)(2) and (b) of the SCHWMA, S.C. Code Ann. § 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing waste without a permit or interim status, because Respondent Nova failed to mark or label its containers with an indication of the hazards of the contents as required by 25 S.C. Code Ann. Regs. 61-79.262.15(a)(5)(ii) [40 C.F.R. § 262.15(a)(5)(ii)], which is a condition of the SAA Permit Exemption.
90. Respondent GRR managed containers of hazardous waste, which were not marked with an indication of the hazards of their contents, in CAAs. The EPA therefore alleges that Respondent

violated Section 44-56-60(a)(2) and (b) of the SCHWMA, S.C. Code Ann. § 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing waste without a permit or interim status, because Respondent GRR failed to mark or label containers with an indication of the hazards of the contents as required by 25 S.C. Code Ann. Regs. 61-79.262.17(a)(5)(i)(B) [40 C.F.R. § 262.17(a)(5)(i)(B)], which is a condition of the LQG Permit Exemption.

91. Respondent GRR managed containers of hazardous waste in permitted container storage areas that were not labeled with the words “hazardous waste” and / or marked with the EPA hazardous waste number(s). The EPA therefore alleges that Respondent GRR violated the RCRA Permit, Section I.E.1. - Duty to Comply, by failing to label incoming containers whose labels are damaged or incorrect with the statement “Hazardous Waste” and the appropriate EPA hazard waste number as described in Section D (page D-8) of the Approved Permit Application.
92. Respondent GRR managed containers of hazardous waste in permitted container storage areas that were not marked with EPA hazardous waste number(s), an accumulation start date, and / or an indication of the hazards. The EPA therefore alleges that Respondent GRR violated the RCRA Permit, Section VIII.B.2. - Storage Prohibition, which incorporates 25 S.C. Code Ann. Regs. 61-79.268.50(a)(2)(i) [40 C.F.R. § 268.50(a)(2)(i)], by failing to clearly mark each container to identify its contents with the applicable EPA hazardous waste numbers, an indication of the hazards of the contents, and the date each period of accumulation begins.
93. Respondent GRR managed a leaking container of hazardous waste in the permitted container storage area. The EPA therefore alleges that Respondent GRR violated the RCRA Permit, Section III.C. - Condition of Containers, by failing to transfer hazardous waste from a container that is not in good condition (e.g., severe rusting, apparent structural defects) or has begun to leak to a container that is in good condition or to otherwise manage the waste in compliance with the conditions of this Permit and the requirements of 25 S.C. Code Ann. Regs. 61-79.264 Subpart I (25 S.C. Code Ann. Regs. 61-79.264.171 [40 C.F.R. §264.171]).
94. Respondent GRR managed open containers of hazardous waste in permitted container storage areas. The EPA therefore alleges that Respondent GRR violated the RCRA Permit, Section III.E. - Management of Containers, by failing to keep all containers closed during storage, except when it is necessary to add or remove waste (25 S.C. Code Ann. Regs. 61-79.264.173 [40 C.F.R. §264.173]).
95. Respondents operated secondary containment systems for two permitted tank storage areas with areas of cracks and gaps in the surface and / or areas of peeled and missing epoxy polyamide coating. The EPA therefore alleges that Respondents violated the RCRA Permit, Section IV.C.1. by failing to operate the secondary containment system with an impervious coating applied to the concrete slab and wall surrounding the tanks as described in Section D (page D-26) of the RCRA Permit Application; and by failing to equip the secondary containment with an epoxy polyamide coating with fiberglass matting (or a functionally equivalent replacement) as described in Section D (page D-33) of the RCRA Permit Application.
96. Respondents operated a secondary containment system for two permitted tank storage areas with areas of cracks and gaps in the surface and / or areas of peeled and missing epoxy polyamide coating. The EPA therefore alleges that Respondents violated the RCRA Permit, Section IV.C.2. - Secondary Containment and Tank System Integrity Assessments by failing to maintain all the

secondary containment systems free of cracks or gaps and sufficiently impervious to contain leaks, spills, and accumulated precipitation until removed (25 S.C. Code Ann. Regs. 61-79.264.193(b) and (e) [40 C.F.R. § 264.193(b) and (e)]).

97. Respondent GRR's records of inspection did not identify any deficiencies with the condition of the secondary containment area in SA-2. The EPA therefore alleges that Respondent GRR violated the RCRA Permit, Section II.D. – General Inspection Requirements, which incorporates 25 S.C. Code Ann. Regs. 61.79.264.15 [40 C.F.R. § 264.15], by failing to include deficiencies encountered and any observations that may be pertinent to the overall condition of the inspected item on the inspection log sheet as described in Section F-2a of the RCRA Permit Application and required by 25 S.C. Code Ann. Regs. 61.79.264.15(d) [40 C.F.R. § 264.15(d)].
98. Respondent Nova's records of inspection identified deficiencies with the condition of the secondary containment area in SA-2. However, neither Respondent's records of inspection described any corrective actions to be taken in that area. The EPA therefore alleges that Respondents violated the RCRA Permit, Section II.D. – General Inspection Requirements, by failing to: establish the corrective action to be taken and describe on the inspection log; assign the corrective action to a specific person and note the person's name on the log or include a work order number; establish an appropriate time period for the corrective action to be completed considering the nature of the deficiency; and follow up on the assigned date for completion, note that repairs have been completed on the inspection form for a detected deficiency that could not be corrected immediately as described in Section F-2c (page F-7) of the RCRA Permit Application; and by failing to remedy any deterioration or malfunction discovered by an inspection as required by 25 S.C. Code Ann. Regs. 61-79.264.15(c) [40 C.F.R. § 264.15(c)] and the RCRA Permit Application.
99. One of Respondent GRR's employees did not receive Facility Orientation training prior to assuming unsupervised work duties at the Facility. The EPA therefore alleges that Respondent GRR violated the RCRA Permit, Section II.G. – Personnel Training, which incorporates 25 S.C. Code Ann. Regs. 61-79.264.16 [40 C.F.R. § 264.16], by failing to have an employee complete training modules designed to introduce employees to facility layout and operations (Facility Orientation) prior to assuming unsupervised work duties as described in Section H-1b of the RCRA Permit Application.
100. One of Respondent GRR's employees did not receive contingency plan training prior to assuming unsupervised work duties at the Facility. The EPA therefore alleges that Respondent GRR violated the RCRA Permit, Section II.G. – Personnel Training, which incorporates 25 S.C. Code Ann. Regs. 61-79.264.16 [40 C.F.R. § 264.16], by failing to have an employee complete contingency plan training prior to assuming unsupervised work duties as described in Section H-1c of the RCRA Permit Application.
101. Respondent GRR stored hazardous waste that was generated at customer facilities and received by the Facility in an unpermitted CAA. The EPA therefore alleges that Respondent GRR violated the RCRA Permit, Section I.A. - Effect of Permit, by storing hazardous waste in a manner not authorized in the RCRA Permit.
102. Respondent GRR was manually tracking containers received and managed at the Facility, and the Facility did not have a barcoding system as described in the RCRA Permit. The EPA therefore

alleges that Respondent GRR violated the RCRA Permit, Section I.E.1. - Duty to Comply, by failing to use a bar coding system as a means of managing containers through the Facility as required by the RCRA Permit, Section III.A. - Module Highlights, which incorporates a complete description of the container storage area found in Section D (page D-6) of the RCRA Permit Application.

103. Hazardous waste had splashed, spilled or leaked onto the wall and floor surrounding the roll-off containers in Respondent GRR's Solid Fuel Consolidation area in the permitted container storage area SA-5; and had spilled or leaked on the vessel, decking, rails, conveyor, and surrounding area of the Respondent GRR's permitted Subpart X Hydropulper Unit. The EPA therefore alleges that Respondent GRR violated the RCRA Permit, Section II.A. - Design and Operation of the Facility, which incorporates 25 S.C. Code Ann. Regs. 61.79-264.31 [40 C.F.R. § 264.31], by failing to maintain and operate the Facility in a manner to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.
104. Hazardous waste had splashed, spilled or leaked onto the wall and floor surrounding the roll-off containers in Respondent GRR's Solid Fuel Consolidation area in the permitted container storage area SA-5; and it had spilled or leaked on the vessel, decking, rails, conveyor, and surrounding area of the Respondent GRR's permitted Subpart X Hydropulper Unit. The EPA therefore alleges that Respondent GRR violated the RCRA Permit, Section I.E.6. - Proper Operation and Maintenance, by failing to properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Permittee to achieve compliance with the Conditions of this Permit at all times.
105. Hazardous waste had spilled or leaked onto the vessel, decking, rails, conveyor, and surrounding area of the Respondent GRR's permitted Subpart X Hydropulper Unit. The EPA therefore alleges that Respondent GRR violated the RCRA Permit, Section X.D.1. - Operation, by failing to visually detect and remove spills as they occur and failing to operate and maintain the Hydropulper Unit System in a manner that prevents releases that may have adverse effects on human health or the environment due to the migration of waste constituents to the air as described in Section D-7 (page D-47) of the RCRA Permit Application.
106. Hazardous waste had spilled or leaked onto the vessel, decking, rails, conveyor, and surrounding area of the Respondent GRR's permitted Subpart X Hydropulper Unit. The EPA therefore alleges that Respondent GRR violated the RCRA Permit, Section X.E. - Response to Leaks or Spills, by failing to remove the Hydropulper Unit System from service immediately in the event of a leak or spill; to stop the flow of hazardous waste into the system and inspect the Hydropulper Unit System to determine the cause of the release; to remove waste accumulated precipitation from the system within 24 hours of the detection of the leak to prevent further release and to allow inspection and repair of the system; and, for a release caused by a spill that has not damaged the integrity of the system, to remove the released waste and make any necessary repairs to fully restore the integrity of the system before returning the Hydropulper Unit System to service.
107. Hazardous waste had spilled or leaked onto the vessel, decking, rails, conveyor, and surrounding area of the Respondent GRR's permitted Subpart X Hydropulper Unit. The EPA therefore alleges that Respondent GRR violated the RCRA Permit, Section X.C.1. - Miscellaneous Unit with Secondary Containment, which incorporates 25 S.C. Code Ann. Regs. 61.79-264.193(b)-(f) and

R.61.79-264.601(a)-(c) [40 C.F.R. § 264.193(b)-(f) and 264.601(a)-(c)], by failing to visually detect and remove spills as they occur as described in Section D-7 (page D-47) of the RCRA Permit Application.

108. Hazardous waste had spilled or leaked onto the vessel, decking, rails, conveyor, and surrounding area of the Respondent GRR's permitted Subpart X Hydropulper Unit. The EPA therefore alleges that Respondent GRR violated the RCRA Permit, Section IX.B. - Emission Control Technology, by failing to perform transfers of hazardous waste from containers to the Hydropulper vessel in a manner to minimize emissions as described in Section M-3b (page M-9) of the RCRA Permit Application.
109. Respondents' Subpart BB air monitoring records did not include the time or instrument reading for each monitoring event, and Respondent Nova's record of Subpart BB air monitoring conducted on January 15, 2021 did not include the name or signature of the person conducting the air monitoring event. The EPA therefore alleges that Respondents violated the RCRA Permit, Section I.E.9(c), which incorporates 25 S.C. Code Ann. Regs. 61-270.30(j)(3) [40 C.F.R. § 270.30(j)(3)], by failing to specify the dates, exact place, and times of sampling or measurements; the individuals who performed the sampling or measurements; the dates analyses were performed; the individuals who performed the analyses; the analytical techniques or methods used; and / or the results of such analyses for air monitoring under RCRA Subpart BB.
110. Respondent GRR detected five leaks during a Subpart CC inspection event conducted on November 17, 2020 and initiated first attempt at repair for those leaks on December 8, 2020. The EPA therefore alleges that Respondent GRR violated the RCRA Permit, Section IX.B. – Emission Control Technology, which incorporates 25 S.C. Code Ann. Regs. 61-79.264.1084(k)(1) [40 C.F.R. § 264.1084(k)(1)], by failing to make first efforts at repair of each defect detected during an inspection no later than 5 calendar days after detection.

VI. STIPULATIONS

111. The issuance of this CAFO simultaneously commences and concludes this proceeding. 40 C.F.R. § 22.13(b).
112. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondents:
 - a. admit that the EPA has jurisdiction over the subject matter alleged in this CAFO;
 - b. neither admit nor deny the factual allegations set forth in Section IV (Findings of Facts) of this CAFO;
 - c. consent to the assessment of a civil penalty as stated below with the understanding that Respondents are jointly and severally liable for payment of the full civil penalty amount;
 - d. consent to the issuance of this compliance order;
 - e. consent to the conditions specified in this CAFO;
 - f. consent to any stated Permit Action in this CAFO;

- g. waive any right to contest the allegations set forth in Section V (Alleged Violations) of this CAFO; and
- h. waive their rights to appeal the Final Order accompanying this CAFO.

113. For the purpose of this proceeding, Respondents:

- a. acknowledge that this CAFO constitutes an enforcement action for purposes of considering Respondents' compliance history in any subsequent enforcement actions;
- b. waive any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondents may have with respect to any issue of fact or law set forth in this CAFO, including any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706;
- c. waive any rights they may possess at law or in equity to challenge the authority of the EPA to bring a civil action in a United States District Court to compel compliance with the CAFO, and to seek an additional penalty for such noncompliance, and agree that federal law shall govern in any such civil action;
- d. waive any right they 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 CAFO; and

114. Within one hundred and eighty (180) calendar days of receipt of the executed copy of this CAFO, Respondents shall submit to the EPA a certification signed by a duly authorized representative stating that the Facility is in compliance with the Act and its implementing regulations and that all the violations alleged in this CAFO have been corrected. This certification shall be as follows:

"I certify under penalty of law, to the best of my knowledge and belief, that all violations alleged against [Respondent GRR or Respondent Nova, as appropriate] in this CAFO have been corrected. All work was done under my direction or supervision according to a system designed to assure that qualified personnel implemented and completed the required tasks. This certification is based on my inquiry of the person(s) who performed the tasks, or those persons directly responsible for the person(s) who performed the tasks. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

115. The certification required to be submitted under this CAFO shall be mailed to:

Laurie Benton DiGaetano
Senior Enforcement and Compliance Specialist
Chemical Safety and Land Enforcement Branch
Enforcement and Compliance Assurance Division
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8909

116. In accordance with 40 C.F.R. § 22.5, the individuals named in the certificate of service are authorized to receive service related to this proceeding and the parties agree to receive service by electronic means.

VII. TERMS OF PAYMENT

117. Respondents consent to the payment of a civil penalty, which was calculated in accordance with the Act, in the amount of **\$ 91,000.00 (NINETY-ONE THOUSAND DOLLARS)**, which is to be paid within thirty (30) calendar days of the Effective Date of this CAFO.

118. Payment 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.

a. If Respondents send 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

b. If Respondents send 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
Mail Station: SL-MO-C2-GL
St. Louis, Missouri 63101
Contact Number: (314) 425-1819

c. If paying by EFT, Respondents 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"

d. If paying by ACH, Respondents 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

119. Respondents shall send proof of payment, within 24 hours of payment of the civil penalty, to:

Regional Hearing Clerk
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
R4_Regional_Hearing_Clerk@epa.gov

and

Laurie Benton DiGaetano
Chemical Safety and Land Enforcement Branch
Enforcement and Compliance Assurance Division
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
benton-digaetano.laurie@epa.gov

120. “Proof of payment” means, as applicable, a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the Facility name and “Docket No. **RCRA-04-2022-2108(b)**.”

121. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondents fail to remit the civil penalty as agreed to herein, the EPA is entitled 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. Accordingly, the EPA may require the Respondents to pay the following amounts on any amount overdue:

- a. Interest. Interest will begin to accrue on the civil penalty from the Effective Date of this CAFO. If the civil penalty is paid within 30 days of the Effective Date of this CAFO interest is waived. However, if the civil penalty is not paid in full within 30 days, interest will continue to accrue on any unpaid portion until the unpaid portion of the civil penalty and accrued interest are paid. Interest will be assessed at the rate of the United States Treasury tax and loan rate, as established by the Secretary of the Treasury, in accordance with 31 U.S.C. § 3717(a)(1), 31 C.F.R. § 901.9(b)(2), and 40 C.F.R. § 13.11(a).

- b. Non-Payment Penalty. On any portion of a civil penalty more than ninety (90) calendar days past due, Respondents must pay a non-payment penalty of not more than six percent (6%) per annum, which will accrue from the date the penalty payment became due and is not paid, as provided in 31 U.S.C. § 3717(e)(2) and 31 C.F.R. § 901.9(d). This non-payment penalty is in addition to charges which accrue or may accrue under subparagraphs (a) and (c) and will be assessed monthly. 40 C.F.R. § 13.11(c).
 - c. Monthly Handling Charge. Respondents must pay a late payment handling charge to cover the administrative costs of processing and handling the delinquent claim, based on either actual or average cost incurred. 31 C.F.R. § 901.9(b)(c), and 40 C.F.R. § 13.11(b). Administrative costs will be assessed monthly throughout the period the debt is overdue except as provided by 40 C.F.R. § 13.12.
122. In addition to what is stated in the prior Paragraph, if Respondents fail to timely pay any portion of the penalty assessed under this CAFO, the EPA may:
- a. refer the debt to a credit reporting agency or a collection agency, 40 C.F.R. §§ 13.13 and 13.14;
 - b. collect the debt by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 40 C.F.R. Part 13, Subparts C and H;
 - c. suspend or revoke Respondents' licenses or other privileges, or suspend or disqualify Respondents from doing business with the EPA or engaging in programs the EPA sponsors or funds, 40 C.F.R. § 13.17; and/or
 - d. refer the debt to the Department of Justice as provided in 40 C.F.R. § 13.33. In any such judicial action, the validity, amount, and appropriateness of the penalty and of this CAFO shall not be subject to review.
123. Penalties paid pursuant to this CAFO shall not be deductible for purposes of federal taxes.

VIII. WORK TO BE PERFORMED

124. Within thirty (30) calendar days of the effective date of this CA/FO:
- a. Respondents shall submit to SCDHEC, with a copy to EPA, a revised air monitoring log which includes the dates, exact place and times of sampling or measurements; the individuals who performed the sampling or measurements; and the results of the analysis.
 - b. Respondent GRR shall submit to SCDHEC, with a copy to EPA, a permit renewal application or request for modification of the RCRA Permit to include Standard Operating Procedures (SOPs) designed to improve housekeeping around the solid waste consolidation roll-off containers.
125. Within ninety (90) calendar days of the effective date of this CA/FO:

Respondents shall submit to SCDHEC, with a copy to EPA, certification that repairs to the secondary containment area in SA-2 have been completed, and that an epoxy polyamide coating (or a functional equivalent) has been applied to the surface of the secondary containment areas in SA-2 and SA-4.

126. Within one hundred and eighty (180) calendar days of the effective date of this CA/FO:

Respondents shall submit to SCDHEC, with a copy to EPA, a permit renewal application or request for modification of the RCRA Permit for the activity covered in the TA.

IX. EFFECT OF CAFO

127. In accordance with 40 C.F.R. § 22.18(c), Respondents' full compliance with this CAFO shall only resolve Respondents' liability for federal civil penalties for the violations and facts specifically alleged above.
128. Full payment of the civil penalty, as provided in Section VII (Terms of Payment), shall not in any case affect the right of the EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. 40 C.F.R. § 22.18(c).
129. Any violation of this CAFO may result in a civil penalty for each day of continued noncompliance with the CAFO and/or the suspension or revocation of any federal or state permit issued to the violator, as provided in Section 3008(c) of the Act, 42 U.S.C § 6928(c).
130. Nothing in this CAFO shall relieve Respondents of the duty to comply with all applicable provisions of the Act and other federal, state, or local laws or statutes, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit, except as expressly provided herein.
131. Nothing herein shall be construed to limit the power of the EPA to undertake any action against Respondents or any person in response to conditions that may present an imminent and substantial endangerment as provided under the Act.
132. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of all Parties, and approval of the Regional Judicial Officer.
133. The provisions of this CAFO shall apply to and be binding upon Respondents and their officers, directors, employees, agents, trustees, authorized representatives, successors, and assigns. Respondents shall cause all persons, including independent contractors, contractors, and consultants acting under or for Respondents, to comply with the provisions hereof in connection with any activity subject to this CAFO.
134. The obligations of the Respondents under this CAFO are joint and several except as otherwise stated.

135. Any change in the legal status of the Respondents, or change in ownership, partnership, corporate or legal status relating to the Facility, will not in any way alter Respondents' obligations and responsibilities under this CAFO.
136. By signing this Consent Agreement, Respondents acknowledge that this CAFO will be available to the public and agrees that this CAFO does not contain any confidential business information or personally identifiable information.
137. By signing this Consent Agreement, the Complainant and the undersigned representatives of Respondents each certify that he or she is fully authorized to execute and enter into the terms and conditions of this CAFO and has the legal capacity to bind the party he or she represents to this CAFO.
138. By signing this Consent Agreement, all Parties agree that each party's obligations under this CAFO constitute sufficient consideration for the other parties' obligations.
139. By signing this Consent Agreement, Respondents certify that the information they have supplied concerning this matter was at the time of submission, and continues to be, true, accurate, and complete for each such submission, response, and statement. Respondents acknowledge that there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.
140. The EPA also reserves the right to revoke this CAFO and settlement penalty if and to the extent that the EPA finds, after signing this CAFO, that any information provided by Respondents was materially false or inaccurate at the time such information was provided to the EPA. If such false or inaccurate material was provided, the EPA reserves the right to assess and collect any and all civil penalties for any violation described herein. The EPA shall give Respondents notice of its intent to revoke, which shall not be effective until received by Respondents in writing.
141. Unless specifically stated otherwise in this CAFO, each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.
142. It is the intent of the parties that the provisions of this CAFO are severable. If any provision or authority of this CAFO or the application of this CAFO 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 CAFO shall remain in force and shall not be affected thereby.
143. For purposes of the identification requirement of Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 1.162-21(b)(2), performance of Section VIII (Work to be Performed), is restitution, remediation, or required to come into compliance with law.]

X. EFFECTIVE DATE

144. This CAFO shall become effective after execution of the Final Order by the Regional Judicial Officer, on the date of filing with the Hearing Clerk.

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Complainant and Respondent will Each Sign on Separate Pages.]

The foregoing Consent Agreement In the Matter of Giant Resource Recovery – Sumter, Inc., Docket No. **RCRA-04-2022-2108(b)**, is Hereby Stipulated, Agreed, and Approved for Entry.

AGREED AND CONSENTED TO:

RESPONDENT GIANT RESOURCE RECOVERY-SUMTER, INC.

Signature: Stephen P Holt Date: 09/06/2022

Printed Name: Stephen P. Holt


Title: Vice President, Environmental, Health & Safety

Address: 654 Judge Street, Harleyville, S.C. 29448

The foregoing Consent Agreement In the Matter of Giant Resource Recovery – Sumter, Inc., Docket No. **RCRA-04-2022-2108(b)**, is Hereby Stipulated, Agreed, and Approved for Entry.

AGREED AND CONSENTED TO:

RESPONDENT NOVA MOLECULAR SUMTER, LLC

Signature:  Date: SEPTEMBER 6, 2022
Printed Name: STEVE HOEPFNER
Title: CHIEF FINANCIAL OFFICER
Address: 635 3RD STREET, BELoit, WI 53511

The foregoing Consent Agreement In the Matter of Giant Resource Recovery – Sumter, Inc., Docket No. **RCRA-04-2022-2108(b)**, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR COMPLAINANT:

Kimberly L. Bingham, Chief
Chemical Safety and Land Enforcement Branch
Enforcement & Compliance Assurance Division
U.S. Environmental Protection Agency, Region 4

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of:

Giant Resource Recovery – Sumter, Inc.,
755 Industrial Road
Sumter, South Carolina 29150
EPA ID No.: SCD036275626

Respondent

and

Nova Molecular Sumter, LLC
749 Industrial Road
Sumter, South Carolina 29150
EPA ID No.: SCR000778381

Respondent.

Docket No. **RCRA-04-2022-2108(b)**

Proceeding Under Section 3008(a) of the
Resource Conservation and Recovery Act,
42 U.S.C. § 6928(a)

The Regional Judicial Officer is authorized to ratify this Consent Agreement which memorializes a settlement between Complainant and Respondents. 40 C.F.R. §§ 22.4(b) and 22.18(b)(3). The foregoing Consent Agreement is, therefore, 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 Respondents are 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 Final Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

BEING AGREED, IT IS SO ORDERED.

Tanya Floyd
Regional Judicial Officer

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order, in the Matter of Giant Resource Recovery – Sumter, Inc., Docket No. **RCRA-04-2022-2108(b)**, were filed and copies of the same were emailed to the parties as indicated below.

Via email to all parties at the following email addresses:

To Respondent: Elizabeth B. Partlow
Law Offices of Elizabeth B. Partlow, LLC
Post Office Box 2444
Columbia, South Carolina 29202
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To EPA: Laurie Benton DiGaetano
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U.S. EPA Region 4
61 Forsyth Street, S.W.
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Shannon L. Richardson, Regional Hearing Clerk
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960