

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

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U.S. EPA REGION 4
HEARING CLERK

In the Matter of:

Ameresco Palmetto, LLC
251 New Hope Road,
Wellford, South Carolina 29385-9467
EPA ID No.: **SCR000783787**

Respondent.

Docket No. **RCRA-04-2024-4008(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 an administrative penalty assessment proceeding brought under Section 3008(a) of the Resource Conservation and Recovery Act (RCRA or the Act), 42 U.S.C. § 6928(a), 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 the Respondent's admission of violation or adjudication of any issues of law or fact herein.

II. PARTIES

4. Complainant is the Director of the 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. The Respondent is **Ameresco Palmetto, LLC**, a corporation doing business in the State of South Carolina. This proceeding pertains to the Respondent's facility located at **251 New Hope Road, Wellford, South Carolina** (Facility).

III. GOVERNING LAW

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the State of South Carolina (State) has received final authorization to implement a hazardous waste program in lieu of the federal program set forth in RCRA. The requirements of the authorized State program are found in the South Carolina Hazardous Waste Management Act (SCHWMA), S.C. Code Ann. §§ 44-56-10 *et seq.* and the South Carolina Hazardous Waste Management Regulations (SCHWMR), S.C. Code Ann. Regs. 61-79.260-270, 61-79.273, and 61-79.279.
7. Pursuant to Section 3006(g) of RCRA, 42 U.S.C. § 6926(g), the requirements established by the Hazardous and Solid Waste Amendments of 1984 (HSWA), Pub. L. 98-616, are immediately effective in all states regardless of their authorization status and are implemented by the EPA until a state is granted final authorization with respect to those requirements. The State has received final authorization for certain portions of HSWA, including those recited herein.
8. Although the EPA has granted the State authority to enforce its own hazardous waste program, the EPA retains jurisdiction and authority to initiate an independent enforcement action pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2). This authority is exercised by the EPA in the manner set forth in the Memorandum of Agreement between the EPA and the State.
9. As the State's authorized hazardous waste program operates in lieu of the federal RCRA program, the citations for the violations 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 CAFO.
11. 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].
12. 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 S.C. Code Ann. Regs. 61-79.265 (interim status) [40 C.F.R. Parts 264 (permitted) and 265 (interim status)].

13. 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.
14. 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)].
15. Pursuant to S.C. Code Ann. Regs. 61-79.261.3(a)(2)(i) and 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 – 61-79.261.24 [40 C.F.R. §§ 261.21-24] are characteristic hazardous waste and are provided with the EPA Hazardous Waste Numbers D001 through D043.
16. Pursuant to S.C. Code Ann. Regs. 61-79.261.20 and 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.
17. Pursuant to S.C. Code Ann. Regs. 61-79.261.20 and 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. 61-79.261.24 [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for arsenic is identified with the EPA Hazardous Waste Number D004.
19. Pursuant to S.C. Code Ann. Regs. 61-79.261.24 [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for mercury is identified with the EPA Hazardous Waste Number D009.
20. Pursuant to S.C. Code Ann. Regs. 61-79.261.24 [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for 1,4-dichlorobenzene is identified with the EPA Hazardous Waste Number D027.
21. Pursuant to S.C. Code Ann. Regs. 61-79.261.3(a)(2)(ii) and 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].
22. Pursuant to S.C. Code Ann. Regs. 61-79.261.31(a) [40 C.F.R. § 261.31(a)], a spent solvent mixture containing, before use, a total of 10 percent or more of xylene is a listed hazardous waste and is identified with the EPA Hazardous Waste Number F003.
23. Pursuant to S.C. Code Ann. Regs. 61-79.261.31(a) [40 C.F.R. § 261.31(a)], a spent solvent mixture containing, before use, a total of 10 percent or more of certain spent non-halogenated

solvents is a listed hazardous waste and is identified with the EPA Hazardous Waste Number F005.

24. 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.
25. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], a “facility” is defined as all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste.
26. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], a “person” includes a corporation.
27. 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.
28. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], a “large quantity generator” (LQG) is a generator who generates greater than or equal to 1,000 kilograms of non-acute hazardous waste in a calendar month.
29. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], “storage” means the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.
30. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], “container” means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.
31. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [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.
32. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], “tank system” means a hazardous waste storage or treatment tank and its associated ancillary equipment and containment system.
33. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], “ancillary equipment” means 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 off-site.
34. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], “contingency plan” means a document setting out an organized, planned, and coordinated course of action to be followed

in case of a fire, explosion, or release of hazardous waste or hazardous waste constituents which could threaten human health or the environment.

35. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], “manifest” means the shipping document EPA Form 8700-22 (including, if necessary, EPA Form 8700-22A), or the electronic manifest, originated and signed in accordance with the applicable regulatory requirements.
36. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], “designated facility” means a hazardous waste treatment, storage, or disposal facility which has received a permit in accordance with the requirements of S.C. Code Ann. Regs. 61-79.270 and 61-79.124; has received a permit from a State authorized in accordance with 40 C.F.R. Part 271; or is regulated under Section 261.6(c)(2) or Subpart F of S.C. Code Ann. Regs. 61-79.266; and that has been designated on the manifest by the generator pursuant to S.C. Code Ann. Regs. 61-79.262.20.
37. Pursuant to S.C. Code Ann. Regs. 61-79.262.17 [40 C.F.R. § 262.17], a large quantity generator 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) 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 specified in S.C. Code Ann. Regs. 61-79.262.17 [40 C.F.R. § 262.17] (hereinafter referred to as the “LQG Permit Exemption”).
38. Pursuant to S.C. Code Ann. Regs. 61-79.262.17(a)(5)(ii)(B) [40 C.F.R. § 262.17(a)(5)(ii)(B)], which is a condition of the LQG Permit Exemption, a generator must mark or label its tank with an indication of the hazards of the contents.
39. Pursuant to S.C. Code Ann. Regs. 61-79.262.17(a)(2) [40 C.F.R. § 262.17(a)(2)], which incorporates S.C. Code Ann. Regs. 61-79.265.1063(d) [40 C.F.R. § 265.1063(d)] and is a condition of the LQG Permit Exemption, a LQG must determine, for each piece of equipment (including ancillary equipment), whether the equipment contains or contacts a hazardous waste with an organic concentration that equals or exceeds 10 percent by weight.
40. Pursuant to S.C. Code Ann. Regs. 61-79.262.11 [40 C.F.R. § 262.11], a person who generates a solid waste must accurately determine if that waste is hazardous using the methods in S.C. Code Ann. Regs. 61-79.262.11 [40 C.F.R. § 262.11].
41. Pursuant to S.C. Code Ann. Regs. 61-79.262.17(a)(2) [40 C.F.R. § 262.17(a)(2)], which incorporates S.C. Code Ann. Regs. 61-79.265.1083(b) and (c)(1) [40 C.F.R. § 265.1083(b) and (c)(1)] and is a condition of the LQG Permit Exemption, a LQG must control air pollutant emissions from each hazardous waste management unit in accordance with standards specified in S.C. Code Ann. Regs. 61-79.265.1085 through 1088 [40 C.F.R. §§ 265.1085 through 265.1088], except a tank or container that is exempt because all hazardous waste entering the unit has an average volatile organic concentration at the point of waste origination of less than 500 parts per million (ppm) by weight. The average volatile organic concentration shall be determined using the procedures specified in S.C. Code Ann. Regs. 61-79.265.1084(a) [40 C.F.R. § 265.1084(a)], and the generator shall review and update, as necessary, this determination at

least once every 12 months following the date of the initial determination for the hazardous waste streams entering the unit.

42. Pursuant to S.C. Code Ann. Regs. 61-79.262.17(a)(2) [40 C.F.R. § 262.17(a)(2)], which incorporates S.C. Code Ann. Regs. 61-79.265.1084(c)(1) [40 C.F.R. § 265.1084(c)(1)] and is a condition of the LQG Permit Exemption, a LQG accumulating hazardous waste in tanks must comply with the RCRA organic air emission standards for tanks found in S.C. Code Ann. Regs. 61-79.265, Subpart CC, including, but not limited to, the requirement to determine the maximum organic vapor pressure for each hazardous waste placed in a tank using Level 1 controls in accordance with the standards specified in S.C. Code Ann. Regs. 61-79.265.1085(c) [40 C.F.R. § 265.1085(c)].
43. Pursuant to S.C. Code Ann. Regs. 61-79.262.17(a)(2) [40 C.F.R. § 262.17(a)(2)], which incorporates S.C. Code Ann. Regs. 61-79.265.1085(b)(1) [40 C.F.R. § 265.1085(b)(1)] and is a condition of the LQG Permit Exemption, for a tank with a design capacity less than 75 cubic meters that manages hazardous waste with an average volatile organic concentration of at least 500 ppm by weight and a maximum organic vapor pressure below 76.6 kilopascals (kPa), the LQG shall control air pollutant emissions in accordance with the Level 1 controls specified in S.C. Code Ann. 61-79.265.1085(b)(1) [40 C.F.R. § 265.1085(b)(1)] and is a condition of the LQG Permit Exemption, for a tank with a design capacity less than 75 cubic meters that manages hazardous waste with an average volatile organic concentration of at least 500 ppm by weight and a maximum organic vapor pressure below 76.6 kilopascals (kPa), the LQG shall control air pollutant emissions in accordance with the Level 1 controls specified in S.C. Code Ann. Regs. 61-79.265.1085(c) [40 C.F.R. § 265.1085(c)].
44. Pursuant to S.C. Code Ann. Regs. 61-79.262.17(a)(2) [40 C.F.R. § 262.17(a)(2)], which incorporates S.C. Code Ann. Regs. 61-79.265.1085(c)(2) [40 C.F.R. § 265.1085(c)(2)] and is a condition of the LQG Permit Exemption, a LQG accumulating hazardous waste in tanks must comply with the requirement for a tank to be equipped with a fixed roof and closure devices designed to form a continuous barrier over the entire surface area of the hazardous waste in the tank; and for each opening in the fixed roof, and any manifold system associated with the fixed roof, to be equipped with a closure device designed to operate such that when the closure devices is secured in the closed position there are no visible cracks, holes, gaps, or other open spaces in the closure device or between the perimeter of the opening and the closure device.
45. Pursuant to S.C. Code Ann. Regs. 61-79.262.17(a)(2) [40 C.F.R. § 262.17(a)(2)], which incorporates S.C. Code Ann. Regs. 61-79.265.1085(c)(4) [40 C.F.R. § 265.1085(c)(4)] and is a condition of the LQG Permit Exemption, a LQG accumulating hazardous waste in tanks must visually inspect the fixed roof and its closure devices to check for defects that could result in air pollutant emissions; and perform an initial inspection of the fixed roof and its closure devices on or before the date that the tank becomes subject to S.C. Code Ann. Regs. 61-79.265.1085 [40 C.F.R. § 265.1085]. Thereafter, the LQG shall perform the inspections at least once every year.
46. Pursuant to S.C. Code Ann. Regs. 61-79.262.17(a)(1)(ii) [40 C.F.R. § 262.17(a)(1)(ii)], which is a condition of the LQG Permit Exemption, if a container holding hazardous waste is not in good

condition, or if it begins to leak, the generator must immediately transfer the hazardous waste from this container to a container that is in good condition, or immediately manage the waste in some other way that complies with the LQG Permit Exemption.

47. Pursuant to S.C. Code Ann. Regs. 61-79.262.17(a)(1)(i) [40 C.F.R. § 262.17(a)(1)(i)], which incorporates S.C. Code Ann. Regs. 61-79.265.1087(c)(4)(iii) [40 C.F.R. § 265.1087(c)(4)(iii)] and is a condition of the LQG Permit Exemption, a LQG accumulating hazardous waste in containers must make first efforts at repair of any defect no later than 24 hours after a defect is detected for the container, cover, or closure devices, and complete the repair as soon as possible, but no later than five calendar days after detection. If a repair cannot be completed within five calendar days, the hazardous waste shall be removed from the container and the container shall not be used to manage hazardous waste until the defect is repaired.
48. Pursuant to S.C. Code Ann. Regs. 61-79.262.17(a)(6) [40 C.F.R. § 262.17(a)(6)], which incorporates S.C. Code Ann. Regs. 61-79.262.262(b)(1) [40 C.F.R. § 262.262(b)(1)] and is a condition of the LQG Permit Exemption, a LQG that is amending its contingency plan must at that time submit a quick reference guide of the contingency plan to the local emergency responders. The quick reference guide must include the types/names of hazardous wastes in layman's terms and the associated hazard associated with each hazardous waste present at any one time.
49. Pursuant to S.C. Code Ann. Regs. 61-79.262.17(a)(7)(iv)(D) [40 C.F.R. § 262.17(a)(7)(iv)(D)], which is a condition of the LQG Permit Exemption, a LQG must maintain records that document that the required hazardous waste training or job experience has been given to, and completed by, facility personnel.
50. Pursuant to S.C. Code Ann. Regs. 61-79.262.42(a)(1) [40 C.F.R. § 262.42(a)(1)], a LQG who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 35 days of the date the waste was accepted by the initial transporter must contact the transporter and/or the owner or operated or the designated facility to determine the status of the hazardous waste.
51. Pursuant to S.C. Code Ann. Regs. 61-79.262.42(a)(2) [40 C.F.R. § 262.42(a)(2)], a LQG must submit an Exception Report if he has not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 45 days of the date the waste was accepted by the initial transporter.
52. Pursuant to S.C. Code Ann. Regs. 61-79.262.20(a)(1) [40 C.F.R. § 262.20(a)(1)], a LQG that transports, or offers for transport a hazardous waste for offsite treatment, storage, or disposal, must prepare a manifest on EPA Form 8700-22. According to the Instructions for Completing the Uniform Hazardous Waste Manifest, generators are to enter up to six federal and state waste codes to describe each waste stream in Item 13.
53. Pursuant to S.C. Code Ann. Regs. 61-79.262.41(a)(5) and (6), an authorized State requirement that is more stringent than the federal biennial reporting requirement found in 40 C.F.R. § 262.41, a LQG who ships any hazardous waste offsite to a treatment, storage or disposal

facility within the United States must prepare and, no later than 30 days after the end of each calendar quarter, submit a written report to the State including, but not limited to, a description, the EPA Hazardous Waste Number, Department of Transportation (DOT) hazard class, and quantity of each hazardous waste shipped offsite for shipments to a treatment, storage, or disposal facility within the United States; and the types and quantities of such wastes shipped for offsite treatment and disposal.

IV. FINDINGS OF FACTS

54. The Respondent is a renewable energy company that compresses methane gas and conveys the compressed gas for customer use to fuel turbine engines.
55. The Respondent generates landfill gas condensate liquid and has determined that this landfill gas condensate liquid is a toxic hazardous waste exhibiting the hazardous waste characteristics associated with Hazardous Waste Numbers D004 (arsenic) and D027 (1,4-dichlorobenzene).
56. The Respondent generates an oily liquid waste, which forms as a layer of excess oil on landfill gas condensate liquid. On February 15, 2022, the Respondent determined that this oily liquid waste is an ignitable and toxic hazardous waste exhibiting the hazardous waste characteristics associated with Hazardous Waste Numbers D001 (ignitable), D009 (mercury), and D027 (1,4-dichlorobenzene).
57. In January 2017, the Respondent notified the South Carolina Department of Health and Environmental Control (SCDHEC) ¹ as a LQG of hazardous waste. Since then, the Respondent has maintained its LQG status.
58. On May 31, 2023, the EPA and the SCDHEC conducted a joint compliance evaluation inspection (CEI) at the Respondent's Facility. The EPA's findings of the CEI were documented in a Report that was sent to the Respondent via email on August 8, 2023.
59. At the time of the CEI, the inspectors observed that the 6,000-gallon hazardous waste storage tank storing landfill gas condensate and oily liquid waste was labeled as D001, D004, D009, D027 hazardous waste condensate and oil, marked with an accumulation start date, and identified with a Class 9 DOT hazard placard, but it was not clearly marked with an indication of the hazards of its contents.
60. At the time of the CEI, the inspectors observed a 300-gallon storage container, which contained oily liquid hazardous waste, dated March 13, 2023. It appeared that the Respondent stored the container on an angle since that date to prevent hazardous waste from leaking from the container through a broken O-ring.

¹ On July 1, 2024, SCDHEC was restructured into a health agency, the Department of Public Health (DPH), and an environmental agency, the Department of Environmental Services (DES). The State represented to the EPA that all the functions, powers, and duties of the environmental divisions, offices, and programs of SCDHEC, including the authority to administer and enforce an authorized hazardous waste program, are retained and continued in full force and effect under DES.

61. At the time of the CEI, the inspectors observed that the Respondent had not determined if the ancillary equipment used to transfer hazardous waste to the 6,000-gallon hazardous waste storage tank contains or contacts a hazardous waste with a total organic concentration that equals or exceeds 10 percent by weight.
62. In an email dated September 25, 2023, the Respondent reported that the average total organic concentration of hazardous waste managed in the 6,000-gallon hazardous waste storage tank system is 0.06 percent by weight.
63. At the time of the CEI, the inspectors observed that the Respondent had not determined the average volatile organic concentration of hazardous waste managed in the 6,000-gallon hazardous waste storage tank or in the 300-gallon hazardous waste storage container, referenced in Paragraphs 59 and 60.
64. In an email dated July 5, 2023, the Respondent reported that the volatile organic concentration of hazardous wastes in the 6,000-gallon hazardous waste storage tank and in the 300-gallon hazardous waste storage container each contained an average volatile organic concentration of over 500 ppm.
65. At the time of the CEI, the inspectors observed that the Respondent had not determined the maximum organic vapor pressure for hazardous waste placed in the 6,000-gallon hazardous waste storage tank.
66. In an email dated September 25, 2023, the Respondent reported that the maximum vapor pressure of hazardous waste managed in the 6,000-gallon hazardous waste storage tank is 14.71 kPa.
67. At the time of the CEI, the inspectors observed openings in the fixed roof of the 6,000-gallon hazardous waste storage tank without closure devices designed to operate with no visible cracks, gaps, or holes. These openings were observed where the level indicator line passes through a port in the fixed roof; where the oil measurement port was located on top of the tank; and at the overflow pipe along the side of the tank. The inspectors also observed vapors in the atmosphere in the areas of the fixed roof where the level indicator enters; where the oil measurement port is located; and where the oil skimmer system was installed. In addition, the API-653 Engineering Inspection Report on the structural integrity of the tank reviewed by the inspectors during the CEI noted that “the flanged mating connections for the level alarm switches are different sizes; the current configuration allows for a gap that could let rain and debris into the tank.”
68. At the time of the CEI, the Respondent did not provide records of visual inspections of the fixed roof and closure devices and was not conducting these inspections at least once every year after the date that the 6,000-gallon hazardous waste storage tank was placed into service.
69. At the time of the CEI, the inspectors observed that the quick reference guide and contingency plan that the Respondent transmitted to the local emergency responders on May 13, 2022, did

not include an identification of the ignitable hazard associated with the oily liquid hazardous waste.

70. At the time of the CEI, the inspectors observed that hazardous waste training records were not provided for one employee for calendar year 2021 and for two employees for calendar years 2022 and 2023.
71. At the time of the CEI, the inspectors observed that the Respondent had not contacted the transporter or designated facility to inquire about three hazardous waste shipments for which more than 35 days had passed between the date that the waste shipment was sent offsite and the date that it reached the designated facility.
72. At the time of the CEI, the inspectors observed that the Respondent had not submitted an Exception Report for one hazardous waste shipment for which more than 45 days had passed between the date that the waste shipment was sent offsite and the date that it reached the designated facility.
73. At the time of the CEI, the inspectors observed on the manifests for three shipments of hazardous wastes between June 16, 2020, and February 15, 2022, that the Respondent's hazardous waste determination incorrectly identified the oily liquid waste as an ignitable hazardous waste (D001) and a listed hazardous waste associated with Hazardous Waste Numbers F003 and F005. The Respondent informed the inspectors that it had incorrectly used a waste profile that was associated with a different waste stream. Beginning on February 15, 2022, the Respondent's manifests reflected the corrected hazardous waste determination by identifying the oily liquid waste as hazardous waste exhibiting the characteristics associated with EPA Hazardous Waste Numbers D001, D009, and D027.
74. At the time of the CEI, the inspectors observed that the manifests for three shipments of oily liquid hazardous waste discussed in the paragraph above incorrectly included two EPA hazardous waste numbers that are not associated with the waste, and did not include two EPA hazardous waste numbers that are associated with the waste.
75. At the time of the CEI, the inspectors observed that the quarterly reports associated with four shipments of oily liquid hazardous waste in 2021 did not include one or more of the EPA Hazardous Waste Numbers associated with that waste; that one shipment of oily liquid hazardous waste in 2020 was not included in the associated quarterly report; and that two shipments of oily liquid hazardous waste in 2022 were not included on the associated quarterly reports.

V. ALLEGED VIOLATIONS

76. The Respondent is a "person" as defined in S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10].
77. The Respondent is the "operator" of a "facility" located in Wellford, South Carolina, as those terms are defined in S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10].

78. The Respondent generates wastes that are “solid wastes” and “hazardous wastes” as defined in S.C. Code Ann. Regs. 61-79.261.2 and 61-79.261.3 [40 C.F.R. §§ 261.2 and 261.3].
79. The Respondent is a LQG of hazardous waste as defined in S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10].
80. The Respondent stores oily liquid waste and landfill gas condensate liquid in a 6,000-gallon storage “tank” as defined in S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10].
81. The Respondent failed to mark the 6,000-gallon hazardous waste storage tank with an indication of the hazards of its contents. The EPA therefore alleges that the 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 hazardous waste without a permit or interim status, because the Respondent failed to meet a marking condition of the LQG Permit Exemption specified in S.C. Code Ann. Regs. 61-79.262.17(a)(5)(ii)(B) [40 C.F.R. § 262.17(a)(5)(ii)(B)].
82. The Respondent failed to determine if the ancillary equipment used to transfer hazardous waste to the 6,000-gallon hazardous waste storage tank contains or contacts hazardous waste with an organic concentration greater than or equal to 10 percent by weight. The EPA therefore alleges that the 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 hazardous waste without a permit or interim status, because the Respondent failed to meet a condition of the LQG Permit Exemption found in S.C. Code Ann. Regs. 61-79.262.17(a)(2) [40 C.F.R. § 262.17(a)(2)], by not complying with the test methods and procedures standards specified in S.C. Code Ann. Regs. 61-79.265.1063(d) [40 C.F.R. § 265.1063(d)].
83. Between June 16, 2020, and February 15, 2022, the Respondent used an incorrect hazardous waste profile to make a hazardous waste determination for the oily liquid waste. The EPA therefore alleges that the Respondent violated S.C. Code Ann. Regs. 61-79.262.11 [40 C.F.R. § 262.11] by failing to make an accurate hazardous waste determination.
84. The 6,000-gallon hazardous waste storage tank and the 300-gallon hazardous waste storage container are each subject to S.C. Code Ann. Regs. 61-79.265, Subpart CC [40 C.F.R. Part 265 Subpart CC]. The Respondent failed to determine the average volatile organic concentration of hazardous waste managed in the 6,000-gallon hazardous waste storage tank and in the 300-gallon hazardous waste storage container. The EPA therefore alleges that the 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 hazardous waste without a permit or interim status, because the Respondent failed to meet a condition of the LQG Permit Exemption found in S.C. Code Ann. Regs. 61-79.262.17(a)(2) [40 C.F.R. § 262.17(a)(2)], by failing to use the procedures specified in S.C. Code Ann. Regs. 61-79.265.1084(a) [40 C.F.R. § 265.1084(a)] to determine the average volatile organic concentration of waste entering the tank and the container as required by S.C. Code Ann. Regs. 61-79.265.1083(c)(1) [40 C.F.R. § 265.1083(c)(1)].

85. Air pollutant emissions from the 6,000-gallon hazardous waste storage tank are subject to the Tank Level 1 controls specified in S.C. Code Ann. Regs. 61-79.265.1085(c) [40 C.F.R. § 265.1085(c)]. The Respondent failed to determine the maximum organic vapor pressure for hazardous waste placed in the 6,000-gallon hazardous waste storage tank. The EPA therefore alleges that the 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 hazardous waste without a permit or interim status, because the Respondent failed to meet a condition of the LQG Permit Exemption found in S.C. Code Ann. Regs. 61-79.262.17(a)(2) [40 C.F.R. § 262.17(a)(2)], by failing to determine the maximum organic vapor pressure for each hazardous waste placed in a tank in accordance with the standards specified S.C. Code Ann. Regs. 61-79.265.1084(c)(1) [40 C.F.R. § 265.1084(c)(1)] as required by S.C. Code Ann. Regs. 61-79.265.1085(c) [40 C.F.R. § 265.1085(c)].
86. The Respondent failed to equip the 6,000-gallon hazardous waste storage tank with a fixed roof and closure devices designed to form a continuous barrier over the entire surface area of the hazardous waste in the tank. The EPA therefore alleges that the 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 hazardous waste without a permit or interim status, because the Respondent failed to meet a condition of the LQG Permit Exemption found in S.C. Code Ann. Regs. 61-79.262.17(a)(2) [40 C.F.R. § 262.17(a)(2)], by not complying with the Level 1 air emissions control standards for tanks specified in S.C. Code Ann. Regs. 61-79.265.1085(c)(2) [40 C.F.R. § 265.1085(c)(2)].
87. The Respondent failed to provide records of visual inspections of the fixed roof and closure devices and was not conducting these inspections at least once every year after the date that the 6,000-gallon hazardous waste storage tank was placed into service. The EPA therefore alleges that the 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 hazardous waste without a permit or interim status, because the Respondent failed to meet a condition of the LQG Permit Exemption found in S.C. Code Ann. Regs. 61-79.262.17(a)(2) [40 C.F.R. § 262.17(a)(2)], by failing to comply with the inspection standards for air emission controls on tanks specified in S.C. Code Ann. Regs. 61-79.265.1085(c)(4) [40 C.F.R. § 265.1085(c)(4)].
88. The Respondent was storing a 300-gallon container holding hazardous waste on an angle to prevent liquid from leaking from the container through a broken O-ring. The EPA therefore alleges that the 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 hazardous waste without a permit or interim status, because the Respondent failed to meet the container condition standards of the LQG Permit Exemption specified in S.C. Code Ann. Regs. 61-79.262.17(a)(1)(ii) [40 C.F.R. § 262.17(a)(1)(ii)].
89. The Respondent was storing a 300-gallon container holding hazardous waste on an angle to prevent liquid from leaking from the container through a broken O-ring. It appeared that the Respondent stored the container on an angle for over two months, rather than making an effort at repair. The EPA therefore alleges that the 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 hazardous waste without a permit or interim status, because the Respondent failed to meet a condition of the LQG Permit Exemption found in S.C. Code Ann. Regs. 61-79.262.17(a)(1)(i) [40 C.F.R. § 262.17(a)(1)(i)], by failing to comply with the repair standards for containers specified in S.C. Code Ann. Regs. 61-79.265.1087(c)(4)(iii) [40 C.F.R. § 265.1087(c)(4)(iii)].

90. The Respondent's quick reference guide to the contingency plan failed to include the associated hazard associated with each hazardous waste present at any one time. The EPA therefore alleges that the 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 hazardous waste without a permit or interim status, because the Respondent failed to meet a condition of the LQG Permit Exemption found in S.C. Code Ann. Regs. 61-79.262.17(a)(6) [40 C.F.R. § 262.17(a)(6)], by not complying with the contingency plan and quick reference guide standards specified in S.C. Code Ann. Regs. 61-79.262.262(b)(1) [40 C.F.R. § 262.262(b)(1)].
91. The Respondent did not provide records that document that the required training had been given to, and completed by, facility personnel. The EPA therefore alleges that the 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 hazardous waste without a permit or interim status, because the Respondent failed to meet the training standards of the LQG Permit Exemption specified in S.C. Code Ann. Regs. 61-79.262.17(a)(7)(iv)(D) [40 C.F.R. § 262.17(a)(7)(iv)(D)].
92. The Respondent did not make contact with the transporter or designated facility to inquire about three hazardous waste shipments, in which more than 35 days passed between the date that the waste shipment was sent off-site and the date that it reached the designated facility. The EPA therefore alleges that the Respondent violated S.C. Code Ann. Regs. 61-79.262.42(a)(1) [40 C.F.R. § 262.42(a)(1)] by failing to inquire on the status of its hazardous waste.
93. The Respondent failed to submit an exception report for one hazardous waste shipment, in which more than 45 days passed between the date that the waste shipment was sent off-site and the date that it reached the designated facility. The EPA therefore alleges that the Respondent violated S.C. Code Ann. Regs. 61-79.262.42(a)(2) [40 C.F.R. § 262.42(a)(2)] by failing to submit an exception report.
94. The Respondent failed to enter two of the EPA hazardous waste numbers associated with the waste on three manifest records of oily liquid hazardous waste shipments. The EPA therefore alleges that the Respondent violated S.C. Code Ann. Regs. 61-79.262.20(a)(1) [40 C.F.R. § 262.20(a)(1)] by failing to properly prepare a manifest for hazardous waste offered for transport.
95. The Respondent failed to include the types and quantities of all hazardous waste shipped offsite on the written quarterly reports that were submitted to the Department. The EPA therefore alleges that the Respondent violated S.C. Code Ann. Regs. 61-79.262.41(a)(5) and (6), an authorized State requirement that is more stringent than the federal biennial reporting requirement found in 40 C.F.R. § 262.41.

VI. STIPULATIONS

96. The issuance of this CAFO simultaneously commences and concludes this proceeding. 40 C.F.R. § 22.13(b).
97. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), the Respondent:
- a. admits that the EPA has jurisdiction over the subject matter alleged in this CAFO;
 - b. neither admits nor denies the factual allegations set forth in Section IV (Findings of Facts) of this CAFO;
 - c. consents to the assessment of a civil penalty as stated below;
 - d. consents to the conditions specified in this CAFO;
 - e. waives any right to contest the allegations set forth in Section V (Alleged Violations) of this CAFO; and
 - f. waives its rights to appeal the Final Order accompanying this CAFO.
98. For the purpose of this proceeding, the Respondent:
- a. agrees that this CAFO states a claim upon which relief may be granted against the Respondent;
 - b. acknowledges that this CAFO constitutes an enforcement action for purposes of considering the Respondent's compliance history in any subsequent enforcement actions;
 - c. waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that the Respondent 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;
 - d. waives any rights it 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 agrees that federal law shall govern in any such civil action;
 - e. 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 CAFO; and
 - f. agrees to comply with the terms of this CAFO.

99. By executing this CAFO, the Respondent certifies to the best of its knowledge that the Respondent is currently in compliance with all relevant requirements of the authorized State program found in the SCHWMA and the SCHWMR, and the Act and its implementing regulations, and that all violations alleged herein, which are neither admitted nor denied, have been corrected.
100. 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

101. The Respondent consents to the payment of a civil penalty, which was calculated in accordance with the Act, in the amount of **TWO HUNDRED THIRTY-ONE THOUSAND DOLLARS (\$231,000.00)**, which is to be paid within 30 days of the Effective Date of this CAFO.
102. The Respondent shall pay the civil penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>. In addition, the Respondent shall identify every payment with the Respondent's name and the docket number of this CAFO, Docket No. RCRA-04-2024-4008(b).
103. The Respondent shall send proof of payment, within 24 hours of payment of the civil penalty, to:

Regional Hearing Clerk
r4_regional_hearing_clerk@epa.gov

and

Laurie Benton DiGaetano
Chemical Safety and Land Enforcement Branch
Enforcement and Compliance Assurance Division
benton-digaetano.laurie@epa.gov

and

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

104. "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-04-2024-4008(b)**.

105. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if the Respondent fails 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 Respondent 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 90 days past due, the Respondent 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. The Respondent 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(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.
106. In addition to what is stated in the prior Paragraph, if the Respondent fails 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 (*see* 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 (*see* 40 C.F.R. Part 13, Subparts C and H);
 - c. suspend or revoke the Respondent's licenses or other privileges, or suspend or disqualify the Respondent from doing business with the EPA or engaging in programs the EPA sponsors or funds (*see* 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.

107. Penalties paid pursuant to this CAFO shall not be deductible for purposes of federal taxes.

108. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 6050-1, the EPA is required to send a completed Form 1098-F (“Fines, Penalties, and Other Amounts”) to the Internal Revenue Service (IRS) annually with respect to any court order and settlement agreement (including administrative settlements), that requires a payor to pay an aggregate amount that the EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor’s violation of any law or the investigation or inquiry into the payor’s potential violation of any law, including amounts paid for “restitution or remediation of property” or to come “into compliance with a law.” The EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (for example, a copy of Form 1098-F). In order to provide the EPA with sufficient information to enable it to fulfill these obligations, the EPA herein requires, and the Respondent herein agrees, that:

- a. The Respondent shall complete a Form W-9 (“Request for Taxpayer Identification Number and Certification”), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
- b. The Respondent shall therein certify that its completed Form W-9 includes the Respondent’s correct Tax Identification Number (TIN) or that the Respondent has applied and is waiting for issuance of a TIN;
- c. The Respondent shall email its completed Form W-9 to the EPA’s Cincinnati Finance Center, Region 4’s contact, Jessica Henderson (henderson.jessica@epa.gov), on or before the date that the Respondent’s initial penalty payment is due, pursuant to Paragraph 101 of this CAFO, and the EPA recommends encrypting Form W-9 email correspondence; and
- d. In the event that the Respondent has certified in its completed Form W-9 that it has applied for a TIN and that TIN has not been issued to the Respondent by the date that its initial penalty payment is due, then the Respondent, using the same email address identified in the preceding sub-paragraph, shall further:
 - i. notify the EPA’s Cincinnati Finance Center of this fact, via email, by the date that the Respondent’s initial penalty payment is due; and
 - ii. provide the EPA’s Cincinnati Finance Center with the Respondent’s TIN, via email, within five days of the Respondent’s issuance and receipt of the TIN.
- e. Failure to comply with providing Form W-9 or a TIN may subject the Respondent to a penalty. See 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1.

VIII. EFFECT OF CAFO

109. In accordance with 40 C.F.R. § 22.18(c), the Respondent's full compliance with this CAFO shall only resolve the Respondent's liability for federal civil penalties for the violations and facts specifically alleged above.
110. Full payment of the civil penalty, as provided in Section VII (Terms of Payment) shall satisfy the requirements of this CAFO; but, 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).
111. 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).
112. Nothing in this CAFO shall relieve the Respondent 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.
113. Nothing herein shall be construed to limit the power of the EPA to undertake any action against the Respondent or any person in response to conditions that may present an imminent and substantial endangerment as provided under the Act.
114. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of both Parties, and approval of the Regional Judicial Officer.
115. The provisions of this CAFO shall apply to and be binding upon the Respondent and its successors and assigns. The Respondent shall direct its officers, directors, employees, agents, trustees, and authorized representatives to comply with the provisions of this CAFO, as appropriate.
116. Any change in the legal status of the Respondent, or change in ownership, partnership, corporate or legal status relating to the Facility, will not in any way alter the Respondent's obligations and responsibilities under this CAFO.
117. By signing this Consent Agreement, the Respondent acknowledges that this CAFO will be available to the public and agrees that this CAFO does not contain any confidential business information or personally identifiable information.
118. By signing this Consent Agreement, the Complainant and the undersigned representative of the Respondent each certify that one is fully authorized to execute and enter into the terms and conditions of this CAFO and has the legal capacity to bind the party one represents to this CAFO.

119. By signing this Consent Agreement, both Parties agree that each party's obligations under this CAFO constitute sufficient consideration for the other party's obligations.
120. By signing this Consent Agreement, the Respondent certifies that the information it has 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. The Respondent acknowledges that there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.
121. 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 the Respondent 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 the Respondent notice of its intent to revoke, which shall not be effective until received by the Respondent in writing.
122. Unless specifically stated otherwise in this CAFO, each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.
123. 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.

IX. EFFECTIVE DATE

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

[Remainder of Page Intentionally Left Blank

Complainant and Respondent will Each Sign on Separate Pages.]

The foregoing Consent Agreement In the Matter of *Ameresco Palmetto, LLC*, Docket No. RCRA-04-2024-4008(b), is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:



Signature

9/25/24

Date

Printed Name: Michael T. Bakas

Title: Authorized Representative

Address: 111 Speen Street, Framingham, MA 01701

The foregoing Consent Agreement In the Matter of **Ameresco Palmetto, LLC**, Docket No. **RCRA-04-2024-4008(b)**, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR COMPLAINANT:

Keriema S. Newman, Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 4

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of:

Ameresco Palmetto, LLC
251 New Hope Road,
Wellford, South Carolina 29385-9467
EPA ID No.: **SCR000783787**

Respondent.

Docket No. **RCRA-04-2024-4008(b)**

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

FINAL ORDER

The Regional Judicial Officer is authorized to ratify this Consent Agreement which memorializes a settlement between Complainant and Respondent. 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 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 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 **Ameresco Palmetto, LLC, Docket No. RCRA-04-2024-4008(b)**, was 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: Karl A. Karg, Esq.
Latham & Watkins LLP
karl.karg@lw.com
555 Eleventh Street, NW, Suite 1000
Washington, D.C. 20004-1304
(202) 637-2124

To EPA: Laurie Benton DiGaetano
Environmental Engineer
benton-digaetano.laurie@epa.gov
(404) 562-8948

Roberto X. Buso
Associate Regional Counsel
buso.roberto@epa.gov
(404) 562-8530

Regional Hearing Clerk
R4_Regional_Hearing_Clerk@epa.gov