UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of: MacLean Power York, LLC 7801 Park Place Road York, South Carolina 29745 EPA ID No.: SCD987579109 Respondent.	Docket No. **RCRA-04-2023-2105(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 Respondent's admission of violation or 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 is MacLean Power York, LLC, a limited liability company doing business in the State of South Carolina as MacLean Power Systems. This proceeding pertains to Respondent's facility located at 7801 Park Place Road, York, 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 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 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)], require 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. 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.

13. 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)].

14. 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. 61-79.261.21-24 [40 C.F.R. §§ 261.21-24] are characteristic hazardous waste and are provided with the EPA Hazardous Waste Numbers D001 through D043.

15. 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.

16. 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. 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 chromium is identified with the EPA Hazardous Waste Number D007.

17. 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].

18. 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].

19. 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 ten percent or more of acetone is a listed hazardous waste and is identified with the EPA Hazardous Waste Number F003.

20. 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.

21. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], a "person" includes a corporation.

22. 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."

23. 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."

24. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], a "container" means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

25. Pursuant to 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 S.C. Code Ann. Regs. 61-79.262.16(b) or 61-79.262.17(a) [40 C.F.R. §§ 262.16(b) or 262.17(a)], except as required by

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 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").

26. Pursuant to S.C. Code Ann. Regs. 61-79.262.15(a)(4) [40 C.F.R. § 262.15(a)(4)], which is a condition of the SAA Permit Exemption, a generator is required to keep containers of hazardous waste closed at all times during accumulation, except when adding, removing, or consolidating waste; or when temporary venting of a container is necessary for the proper operation of equipment, or to prevent dangerous situations, such as build-up of extreme pressure.

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

28. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], a "large quantity generator" (LQG) includes a generator who generates greater than or equal to one thousand (1,000) kilograms (2,200 pounds) of non-acute hazardous waste in a calendar month.

29. Pursuant to 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 S.C. Code Ann. Regs. 61-79.262.17 [40 C.F.R. § 262.17] (hereinafter referred to as the "LQG Permit Exemption").

30. Pursuant to S.C. Code Ann. Regs. 61-79.262.17(a)(5)(i) [40 C.F.R. § 262.17(a)(5)(i)], which is a condition of the LQG Permit Exemption, a generator is required to mark or label containers with the words "Hazardous Waste;" with an indication of the hazards of the contents; and with the date upon which each period of accumulation begins clearly visible for inspection on each container.

31. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], a "central accumulation area" (CAA) means any on-site hazardous waste accumulation area with hazardous waste accumulating in units subject to either S.C. Code Ann. Regs. 61-79.262.16 (for small quantity generators) or 61.262.17 (for large quantity generators).

32. Pursuant to S.C. Code Ann. Regs. 61-79.262.17(a)(1)(v) [40 C.F.R. § 262.17(a)(1)(v)], which is a condition of the LQG Permit Exemption, a generator is required to, at least weekly, inspect CAAs looking for leaking containers and for deterioration of containers caused by corrosion or other factors.

33. Pursuant to S.C. Code Ann. Regs. 61-79.262.17(a)(1)(vi)(B) [40 C.F.R. § 262.17(a)(1)(vi)(B)], which is a condition of the LQG Permit Exemption, "no smoking" signs must be conspicuously placed wherever there is a hazard from ignitable or reactive waste.

34. 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. 61-79.262.252(a) and (c) [40 C.F.R. § 262.252(a) and (c)], and is a condition of the LQG Permit Exemption, areas where hazardous waste is generated or

accumulated onsite must be equipped with an internal communications or alarm system capable of providing immediate emergency instruction to facility personnel; and decontamination equipment (i.e., emergency shower and eyewash station).

35. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], a "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.

36. 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. 61-79.262.261(c) and (e) [40 C.F.R. § 262.261(c) and (e)], and is a condition of the LQG Permit Exemption, the contingency plan must describe arrangements agreed to with the local police department, fire department, other emergency response teams, emergency response contractors, equipment suppliers, local hospitals, or, if applicable, the Local Emergency Planning Committee; and it must include a list of all emergency equipment at the facility where this equipment is required. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list, and a brief outline of its capabilities.

37. 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(a) [40 C.F.R. § 262.262(a)], and is a condition of the LQG Permit Exemption, a generator is required to submit a copy of the contingency plan and all revisions to all local emergency responders. This document may also be submitted to the Local Emergency Planning Committee, as appropriate.

38. 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) [40 C.F.R. § 262.262(b)], and is a condition of the LQG Permit Exemption, a generator that is amending its contingency plan must at that time submit a Quick Reference Guide of the contingency plan to the local emergency responders or, as appropriate, the Local Emergency Planning Committee. The Quick Reference Guide must include the following elements: (1) the types/names of hazardous wastes in layman's terms and the associated hazard associated with each hazardous waste present at any one time; (2) the estimated maximum amount of each hazardous waste that may be present at any one time; (3) the identification of any hazardous wastes where exposure would require unique or special treatment by medical or hospital staff; (4) a map of the facility showing where hazardous wastes are generated, accumulated and treated and routes for accessing these wastes; (5) a street map of the facility in relation to surrounding businesses, schools and residential areas to understand how best to get to the facility and also evacuate citizens and workers; (6) the locations of water supply; and (7) the identification of on-site notification systems.

39. Pursuant to S.C. Code Ann. Regs. 61-79.262.17(a)(7)(i)(A) and (a)(7)(ii) [40 C.F.R. § 262.17(a)(7)(i)(A) and (a)(7)(ii)], which is a condition of the LQG Permit Exemption, facility personnel must successfully complete a program of classroom instruction, online training, or on-the-job training that teaches them to perform their duties in a way that ensures compliance with 40 C.F.R. Part 262 within six months after the date of their employment or assignment to a facility.

40. Pursuant to S.C. Code Ann. Regs. 61-79.262.17(a)(7)(iv) [40 C.F.R. § 262.17(a)(7)(iv)], which is a condition of the LQG Permit Exemption, the LQG must maintain the following documents and records at the facility: (A) the job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job; (B) a written job description for each position at the facility related to hazardous waste management; (C) a written description of the type and amount of both introductory and continuing training that will be given to each person filling a position at the facility related to hazardous waste management; and (D) records that document that the training or job experience, required in this section, has been given to, and completed by, facility personnel.

41. Pursuant to S.C. Code Ann. Regs. 61-79.260.10, "quarter" means a three (3) month period ending on the last day of March, June, September, and December.

42. Pursuant to S.C. Code Ann. Regs. 61-79.262.41, an authorized State requirement that is more stringent than the federal biennial reporting requirement found in 40 C.F.R. § 262.41, each LQG who ships any hazardous waste off-site to a treatment, storage or disposal facility within the United States must prepare and, no later than thirty (30) days after the end of each calendar quarter, submit a written report to the South Carolina Department of Health and Environmental Control (SCDHEC) including, but not limited to: (1) the EPA identification number, name, and address of the generator; (2) the calendar quarter covered by the report; (3) the EPA identification number, name, and address for each off-site treatment, storage, or disposal facility in the United States to which waste was shipped during the quarter; (4) the name and EPA identification number of each transporter used during the reporting quarter for shipments to a treatment, storage, or disposal facility within the United States; (5) a description, the EPA hazardous waste number, DOT hazardous class, and quantity of each hazardous waste shipped off-site for shipments to a treatment, storage, or disposal facility within the United States. This information must be listed by the EPA identification number of each such facility to which waste was shipped; (6) the types and quantities of such wastes shipped for off-site treatment and disposal; (7) the types and quantities of such waste remaining in storage at the end of the reporting period; and (8) certification of information signed by the generator or his authorized representative.

43. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], a "wipe" means a woven or non-woven shop towel, rag, pad, or swab made of wood pulp, fabric, cotton, polyester blends, or other material.

44. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], a "solvent-contaminated wipe" includes a wipe that, after use or after cleaning up a spill, contains one or more of the F001 through F005 solvents listed in S.C. Code Ann. Regs. 61-79.261.31 [40 C.F.R. § 261.31].

45. Pursuant to S.C. Code Ann. Regs. 61-79.262.11(b) [40 C.F.R. § 262.11(b)], a person who generates a solid waste, as defined in S.C. Cod Ann. Regs. 61.79-261.2 [40 C.F.R. § 261.2], must make an accurate determination as to whether that waste is a hazardous waste in order to ensure wastes are properly managed according to applicable SCHWMA regulations. A person must determine whether the solid waste is excluded from regulation under S.C. Code Ann. Regs. 61-79.261.4 [40 C.F.R. § 261.4].

46. Pursuant to S.C. Code Ann. Regs. 61-79.261.4(a)(26) [40 C.F.R. § 261.4(a)(26)], solvent-contaminated wipes that are sent for cleaning and reuse are not solid wastes from the point of generation, provided that the conditions listed in S.C. Code Ann. Regs. 61-79.261.4(a)(26) [40 C.F.R. § 261.4(a)(26)] are met (hereinafter referred to as the "Solvent-Contaminated Reusable Wipe Exclusion").

47. Pursuant to S.C. Code Ann. Regs 61-79.261.4(a)(26)(i) [40 C.F.R. § 261.4(a)(26)(i)], which is a condition of the Solvent-Contaminated Reusable Wipe Exclusion, solvent-contaminated wipes, when accumulated, stored, and transported, must be contained in non-leaking, closed containers that are labeled "Excluded Solvent-Contaminated Wipes." The containers must be able to contain free liquids, should free liquids occur. During accumulation, a container is considered closed when there is complete contact between the fitted lid and the rim, except when it is necessary to add or remove solvent-contaminated wipes. When the container is full, or when the solvent-contaminated wipes are no longer being accumulated, or when the container is being transported, the container must be sealed with all lids properly and securely affixed to the container and all openings tightly bound or closed sufficiently to prevent leaks and emissions.

48. Pursuant to S.C. Code Ann. Regs. 61-79.261.4(a)(26)(v)(C) [40 C.F.R. § 261.4(a)(26)(v)(C)], which is a condition of the Solvent-Contaminated Reusable Wipe Exclusion, generators must maintain a description of the process the generator is using to ensure the solvent-contaminated wipes contain no free liquids at the point of being transported off-site for disposal.

49. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], "universal waste" includes the following hazardous wastes that are managed under the universal waste requirements of S.C. Code Ann. Regs. 61-79.273 [40 C.F.R. Part 273]: batteries as described in S.C. Code Ann. Regs. 61-79.273.2 [40 C.F.R. § 273.2] and lamps as described in S.C. Code Ann. Regs. 61-79.273.5 [40 C.F.R. § 273.5].

50. Pursuant to S.C. Code Ann. Regs. 61-79.273.5 [40 C.F.R. § 273.5], the requirements of S.C. Code Ann. Regs. 61-79.273 [40 C.F.R. Part 273] apply to persons managing lamps as described in S.C. Code Ann. Regs. 61-79.273.9 [40 C.F.R. § 273.9].

51. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], and to S.C. Code Ann. Regs. 61-79.273.9 [40 C.F.R. § 273.9], a "lamp," also referred to as "universal waste lamp," is defined as the bulb or tube portion of an electric lighting device. A lamp is specifically designed to produce radiant energy, most often in the ultraviolet, visible, and infra-red regions of the electromagnetic spectrum. Examples of common universal waste electric lamps include, but are not limited to, fluorescent, high intensity discharge, neon, mercury vapor, high pressure sodium, and metal halide lamps.

52. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], a "universal waste handler" includes a generator of universal waste.

53. Pursuant to S.C. Code Ann. Regs. 61-79.273.9 [40 C.F.R. § 273.9], a "Small Quantity Handler of Universal Waste" (SQHUW) means a universal waste handler who does not accumulate 5,000 kilograms or more of universal waste (batteries, pesticides, mercury-containing equipment, or lamps, calculated collectively) at any time.

54. Pursuant to S.C. Code Ann. Regs. 61-79.273.13(d)(1) [40 C.F.R. § 273.13(d)(1)], a SQHUW must contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

55. Pursuant to S.C. Code Ann. Regs. 61-79.273.14(e) [40 C.F.R. § 273.14(e)], a SQHUW must label or mark each lamp or container or package in which such lamps are contained clearly with one of the following phrases: "Universal Waste - Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)."

56. Pursuant to S.C. Code Ann. Regs 61-79.273.15(c) [40 C.F.R. § 273.15(c)], a SQHUW who accumulates universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

IV. FINDINGS OF FACTS

57. Respondent manufactures and supplies products for electric utility, communication and civil infrastructure markets and specializes in the fabrication and assembly of insulators for power distribution companies.

58. At the Facility, Respondent generates hazardous waste naphtha, hazardous waste isopropyl alcohol, and hazardous waste naphtha propyl acetate, which are each identified with the EPA Hazardous Waste Number D001; hazardous waste spent acetone, which is identified with the EPA Hazardous Waste Numbers D001 and F003; hazardous waste aerosols, which are identified with the EPA Hazardous Waste Number D001; hazardous waste excess paint and alcohols, which are identified with the EPA Hazardous Waste Numbers D001 and D007 (chromium); hazardous waste used rags and filters, which are identified with the EPA Hazardous Waste Number D007; and solvent-contaminated wipes that contain naphtha, isopropyl alcohol, and/or acetone, which are identified with the EPA Hazardous Waste Number D001.

59. At the Facility, Respondent generates 1,000 kilograms or more of hazardous waste in a calendar month. Respondent has been operating as an LQG at the Facility since 2014.

60. At the Facility, Respondent generates universal waste lamps and batteries, accumulates less than 5,000 kilograms of universal waste at any given time, and operates as a SQHUW.

61. On May 19, 2022, the EPA and the SCDHEC conducted a RCRA Compliance Evaluation Inspection (CEI) at Respondent's Facility.

62. On July 5, 2022, the EPA mailed Respondent an Opportunity to Show Cause Letter (Show Cause Letter) and a CEI Report documenting its findings from the May 19, 2022, CEI.

63. At the time of the CEI, the inspectors observed the following containers in SAAs at the Facility:

    (a) One open and unlabeled 55-gallon drum of hazardous waste naphtha and one open and unlabeled portable secondary containment pallet containing hazardous waste naphtha in the Fiber One Single Spin Machine Area;

(b) One open 55-gallon drum of hazardous waste isopropyl alcohol outside of the caged CAA;

(c) One open 55-gallon drum of hazardous waste naphtha propyl acetate in the Molded Area Primer Station;

(d) One open 55-gallon drum of hazardous waste aerosols in the Green Zone next to the SmartFoam Part A&B wastes;

(e) One 55-gallon drum of hazardous waste excess paint and alcohols, which was not marked to indicate that its contents were toxic, in the Teflon Room; and

(f) One 55-gallon drum of hazardous waste used rags and filters, which was not marked to indicate that its contents were toxic, in the Teflon Room.

64. At the time of the CEI, the inspectors observed the following containers in the CAA:

(a) One 55-gallon drum of hazardous waste that was not labeled as hazardous waste or marked with a complete accumulation start date;

(b) One 55-gallon drum of hazardous waste with a ripped hazardous waste label;

(c) Two 55-gallon drums of hazardous waste that were not marked with a complete accumulation start date; and

(d) One 55-gallon drum of hazardous waste that was not marked with an indication of the hazards of its contents.

65. At the time of the CEI, the inspectors reviewed Respondent's records of weekly inspections of the CAA. There were no records of weekly inspections of the CAA conducted during calendar year 2019 or during January through July of calendar year 2020.

66. Despite that Respondent reports to have designated the Facility a non-smoking facility, the inspectors did not observe any "no smoking" signs conspicuously posted in the CAA where the Facility manages flammable waste, including at the time of the CEI.

67. At the time of the CEI, the inspectors observed that the CAA was not equipped with an emergency shower or eyewash station as decontamination equipment.

68. At the time of the CEI, the inspectors reviewed Respondent's contingency plan, which was titled the "Emergency Action Plan." The plan included a list of emergency equipment at the Facility and a brief outline of the capabilities of each item on the list, but it did not describe the location of each piece of equipment. The plan described arrangements agreed to with the York County Office of Emergency Management, the York Fire Department, Piedmont Hospital, and Chemtrec, but it did not describe arrangements agreed to with the local police department(s).

69. At the time of the CEI, Respondent could not provide documentation that the Emergency Action Plan had been submitted to the police department(s), fire department, hospital, State and local emergency response teams, or the Local Emergency Planning Committee.

70. At the time of the CEI, the inspectors reviewed Respondent's Quick Reference Guide, but it did not include the types/names of hazardous waste in layman's terms and the hazard associated with each hazardous waste present at any one time; the estimated maximum amount of each hazardous waste that may be present at any one time; the identification of any hazardous wastes where exposure would require unique or special treatment by medical or hospital staff; a map of the Facility showing where hazardous wastes are generated, accumulated and treated and routes for accessing these wastes; a street map of the Facility in relation to surrounding businesses, schools and residential areas; the locations of water supply; or the identification of on-site notification systems; and the guide had not been provided to the local police department(s), fire departments, hospitals, or State and local emergency response teams that may be called upon to provide emergency services.

71. At the time of the CEI, the inspectors reviewed Respondent's records of hazardous waste training, which indicated that the Facility's Environmental Health and Safety Engineer did not complete initial hazardous waste training within six months after the date of their employment or assignment to the Facility.

72. At the time of the CEI, the inspectors reviewed Respondent's hazardous waste training program records, which did not include job descriptions and employee names that include the requisite skill, education, or other qualifications, and duties of Facility personnel assigned to positions related to hazardous waste management or a written description of the type and amount of both introductory and continuing training to be given to each person filling a position related to hazardous waste management.

73. At the time of the CEI, the inspectors reviewed available quarterly reports, which did not include reports for calendar year 2019 or for the first three quarters of calendar year 2020 and did not include a description, the EPA hazardous waste number, DOT hazardous class, and quantity of non-routine hazardous wastes generated during an inventory clean-out and shipped off-site to a treatment, storage, or disposal facility within the United States during the second quarter of calendar year 2021.

74. At the time of the CEI, the inspectors observed an open bin of solvent-contaminated wipes in the Compositz SAA. The used wipes were damp, they were in an open bin, and the bin was not labeled.

75. At the time of the CEI, Respondent did not maintain a description of the process that was being used to ensure that the solvent-contaminated wipes contain no free liquids at the point of being transported off-site for laundering or dry cleaning.

76. At the time of the CEI, the inspectors observed two open boxes of universal waste fluorescent lamps, and one bucket of broken universal waste lamps which was labeled "universal waste bulbs."

77. At the time of the CEI, Respondent had not marked containers of universal waste with an accumulation start date and did not provide a method to clearly demonstrate the length of time that the universal waste had been accumulated on-site.

V. ALLEGED VIOLATIONS

78. Respondent is a "person" as defined in S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10].

79. Respondent is a "generator" of "solid wastes" and "hazardous wastes" as those terms are defined in S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], S.C. Code Ann. Regs. 61-79.261.2 [40 C.F.R. § 261.2], and S.C. Code Ann. Regs. 61-79.261.3 [40 C.F.R. § 261.3], respectively.

80. Respondent is an "LQG" of hazardous waste as that term is defined in S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10].

81. Respondent managed containers of hazardous waste, which at the time of the CEI were not closed, in SAAs. 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 hazardous waste without a permit or interim status, because Respondent failed to keep its containers of hazardous waste closed as required by S.C. Code Ann. Regs. 61-79.262.15(a)(4) [40 C.F.R. § 262.15(a)(4)], which is a condition of the SAA Permit Exemption.

82. Respondent managed containers of hazardous waste, which at the time of the CEI were not marked or labeled with the words "Hazardous Waste" and with an indication of the hazards of the contents, in SAAs. 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 hazardous waste without a permit or interim status, because Respondent failed to mark or label containers of hazardous waste with the words "Hazardous Waste" and with an indication of the hazard of the contents as required by S.C. Code Ann. Regs. 61-79.262.15(a)(5) [40 C.F.R. § 262.15(a)(5)], which is a condition of the SAA Permit Exemption.

83. Respondent managed containers of hazardous waste, which at the time of the CEI were not marked or labeled with the words "Hazardous Waste;" with an indication of the hazards of the contents; and with the date upon which each period of accumulation begins clearly visible for inspection, in the CAA. 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 hazardous waste without a permit or interim status, because Respondent failed to mark or label each container with the words "Hazardous Waste," with an indication of the hazards of the contents, and with the date upon which each period of accumulation begins as required by S.C. Code Ann. Regs. 61-79.262.17(a)(5)(i) [40 C.F.R. § 262.17(a)(5)(i)], which is a condition of the LQG Permit Exemption.

84. At the time of the CEI, Respondent's records of inspection did not include records of inspections conducted during calendar year 2019 or during January through July of calendar year 2020. 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 hazardous waste without a permit or interim status, because Respondent failed to conduct weekly inspections of the CAA as required by S.C. Code Ann. Regs. 61-79.262.17(a)(1)(v) [40 C.F.R. § 262.17(a)(1)(v)], which is a condition of the LQG Permit Exemption.

85. At the time of the CEI, Respondent's CAA did not have "no smoking" signs conspicuously posted. 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 hazardous waste without a permit or interim status, because Respondent failed to conspicuously place "no smoking" signs wherever there is a hazard from ignitable or reactive waste as required by S.C. Code Ann. Regs. 61-79.262.17(a)(1)(vi)(B) [40 C.F.R. § 262.17(a)(1)(vi)(B)], which is a condition of the LQG Permit Exemption.

86. At the time of the CEI, Respondent's CAA was not equipped with an emergency shower or eyewash station. 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 hazardous waste without a permit or interim status, because Respondent failed to equip an area where hazardous waste is accumulated onsite with decontamination equipment as required by 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. 61-79.262.252(a) and (c) [40 C.F.R. § 262.252(a) and (c)] and is a condition of the LQG Permit Exemption.

87. At the time of the CEI, Respondent's contingency plan did not describe the location of each piece of emergency equipment at the Facility or describe the arrangements agreed to with the local police department(s). 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 hazardous waste without a permit or interim status, because Respondent failed to include the location of each item on the list of emergency equipment at the Facility and describe arrangements agreed to with the local police department as required by 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. 61-79.262.261(c) and (e) [40 C.F.R. § 262.261(c) and (e)] and is a condition of the LQG Permit Exemption.

88. At the time of the CEI, Respondent could not provide documentation that the contingency plan had been submitted to the police department(s), fire department, hospital, State and local emergency response teams or the Local Emergency Planning Committee. 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 hazardous waste without a permit or interim status, because Respondent failed to submit a copy of the contingency plan and all revisions to all local emergency responders as required by 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(a) [40 C.F.R. § 262.262(a)] and is a condition of the LQG Permit Exemption.

89. At the time of the CEI, Respondent's Quick Reference Guide did not include the types/names of hazardous waste in layman's terms and the hazard associated with each hazardous waste present at any one time; the estimated maximum amount of each hazardous waste that may be present at any one time; the identification of any hazardous wastes where exposure would require unique or special treatment by medical or hospital staff; a map of the Facility showing where hazardous wastes are generated, accumulated and treated and routes for accessing these wastes; a street map of the Facility in relation to surrounding businesses, schools and residential areas; the locations of water supply; or the identification of on-site notification systems; and the guide had not been provided to the local police departments, fire departments, hospitals, or State and local emergency response teams that may be called upon to provide emergency services. 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 hazardous waste without a permit or interim status, because Respondent failed to submit a Quick Reference Guide of the contingency plan to the local emergency responders as required by 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) [40 C.F.R. § 262.262(b)] and is a condition of the LQG Permit Exemption.

90. Respondent's records of hazardous waste training indicated that the Facility's Environmental Health and Safety Engineer did not complete initial hazardous waste training within six months after the date of their employment or assignment to the Facility. 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 hazardous waste without a permit or interim status, because Respondent failed to ensure that Facility personnel successfully complete a program of classroom instruction, online training, or on-the-job training that teaches them to perform their duties in a way that ensures compliance within six months after the date of their employment or assignment to a facility as required by S.C. Code Ann. Regs. 61-79.262.17(a)(7)(i)(A) and (a)(7)(ii) [40 C.F.R. § 262.17(a)(7)(i)(A) and (a)(7)(ii)], which is a condition of the LQG Permit Exemption.

91. At the time of the CEI, Respondent's hazardous waste training program records did not include job descriptions and employee names that include the requisite skill, education, or other qualifications, and duties of Facility personnel assigned to positions related to hazardous waste management or a written description of the type and amount of both introductory and continuing training to be given to each person filling a position related to hazardous waste management. 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 hazardous waste without a permit or interim status, because Respondent failed to maintain the following documents and records at the Facility: (A) the job title for each position at the Facility related to hazardous waste management, and the name of the employee filling each job; (B) a written job description for each position at the Facility related to hazardous waste management; (C) a written description of the type and amount of both introductory and continuing training that will be given to each person filling a position at the Facility related to hazardous waste management; and (D) records that document that the training or job experience, required in this section, has been given to, and completed by, Facility personnel as required by S.C. Code Ann. Regs. 61-79.262.17(a)(7)(iv) [40 C.F.R. § 262.17(a)(7)(iv)], which is a condition of the LQG Permit Exemption.

92. Respondent's available quarterly reports did not include reports for calendar year 2019 or for the first three quarters of calendar year 2020 and did not include a description, the EPA hazardous waste number, DOT hazardous class, and quantity of non-routine hazardous wastes generated during an inventory clean-out and shipped off-site to a treatment, storage, or disposal facility within the United States during the second quarter of calendar year 2021. The EPA therefore alleges that Respondent violated S.C. Code Ann. Regs. 61-79.262.41 [40 C.F.R. § 262.41] by shipping hazardous waste off-site to a treatment, storage, or disposal facility within the United States and failing to prepare and, no later than thirty (30) days after the end of each calendar quarter, submit a written report to the SCDHEC including, but not limited to: (1) the EPA identification number, name, and address of the generator; (2) the calendar quarter covered by the report; (3) the EPA identification number, name, and address for each off-site treatment,

storage, or disposal facility in the United States to which waste was shipped during the quarter; (4) the name and EPA identification number of each transporter used during the reporting quarter for shipments to a treatment, storage, or disposal facility within the United States; (5) a description of the EPA hazardous waste number, DOT hazardous class, and quantity of each hazardous waste shipped off-site for shipments to a treatment, storage, or disposal facility within the United States. This information must be listed by the EPA identification number of each such facility to which waste was shipped; (6) the types and quantities of such wastes shipped for off-site treatment and disposal; (7) the types and quantities of such waste remaining in storage at the end of the reporting period; and (8) certification of information signed by the generator or his authorized representative.

93. At the time of the CEI, Respondent stored damp solvent-contaminated wipes in an open bin which was not labeled. The EPA therefore alleges that Respondent violated S.C. Code Ann. Regs. 61-79.262.11(b) [40 C.F.R. § 262.11(b)], by failing to make an accurate hazardous waste determination on a solid waste that is not excluded from regulation under the Solvent-Contaminated Reusable Wipe Exclusion. Specifically, Respondent failed to make an accurate determination whether the solvent-contaminated wipes are excluded from regulation under S.C. Code Ann. Regs. 61-79.261.4(a)(26)(i) [40 C.F.R. § 261.4(a)(26)(i)], because the solvent-contaminated wipes were stored in a container that was not closed or labeled "Excluded Solvent-Contaminated Wipes," and therefore did not meet the conditions of the Solvent-Contaminated Reusable Wipe Exclusion.

94. At the time of the CEI, Respondent did not maintain a description of the process that was being used to ensure that the solvent-contaminated wipes contain no free liquids at the point of being transported off-site for laundering or dry cleaning. The EPA therefore alleges that Respondent violated S.C. Code Ann. Regs. 61-79.262.11(b) [40 C.F.R. § 262.11(b)], by failing to make an accurate hazardous waste determination on a solid waste that is not excluded from regulation under the Solvent-Contaminated Reusable Wipe Exclusion. Specifically, Respondent failed to make an accurate determination whether the solvent-contaminated wipes are excluded from regulation under S.C. Code Ann. Regs. 61-79.261.4(a)(26)(v) [40 C.F.R. § 261.4(a)(26)(v)], because Respondent did not maintain a description of the process used to ensure the solvent-contaminated wipes contain no free liquids at the point of being transported off-site for disposal and therefore did not meet the conditions of the Solvent-Contaminated Reusable Wipe Exclusion.

95. At the time of the CEI, Respondent stored universal waste fluorescent lamps in two open boxes. The EPA therefore alleges that Respondent violated S.C. Code Ann. Regs. 61-79.273.13(d)(1) [40 C.F.R. § 273.13(d)(1)], by failing to contain universal waste lamps in containers or packages that remain closed.

96. At the time of the CEI, Respondent stored universal waste broken fluorescent lamps in a bucket which was labeled "universal waste bulbs." The EPA therefore alleges that Respondent violated S.C. Code Ann. Regs. 61-79.273.14(e) [40 C.F.R. § 273.14(e)], by failing to label or mark a container in which universal waste lamps are contained clearly with one of the following phrases: "Universal Waste - Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)."

97. At the time of the CEI, Respondent stored universal waste in containers that were not marked with an accumulation start date and did not provide another method to clearly demonstrate the

length of time that the universal waste had been accumulated on-site. The EPA therefore alleges that Respondent violated S.C. Code Ann. Regs 61-79.273.15(c) [40 C.F.R. § 273.15(c)], by accumulating universal waste without being able to demonstrate the length of time that the universal waste has been accumulated from the date it became a waste.

VI. STIPULATIONS

98. The issuance of this CAFO simultaneously commences and concludes this proceeding. 40 C.F.R. § 22.13(b).

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

100. For the sole purpose of this proceeding, Respondent:

a. agrees that this CAFO states a claim upon which relief may be granted against Respondent;

b. acknowledges that this CAFO constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement actions;

c. waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CAFO, including any right of judicial review under 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.

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

102. 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

103. Respondent consents to the payment of a civil penalty, which was calculated in accordance with the Act, in the amount of **$86,881**, which is to be paid within thirty (30) days of the Effective Date of this CAFO.

104. 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 Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

United States Environmental Protection Agency
P.O. Box 979078
St. Louis, Missouri 63197-9000

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

United States Environmental Protection Agency
Fines and Penalties
Government Lockbox 979078
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, Missouri 63101

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

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, New York 10045
Beneficiary: "Environmental Protection Agency"

d. If paying by ACH, Respondent shall remit payment to:

US Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking
Physical location of US Treasury facility:
5700 Rivertech Court
Riverdale, Maryland 20737
Remittance Express (REX): 1-877-234-5681

105. Respondent shall send proof of payment via email, within twenty-four (24) hours of payment of the civil penalty, to:

Regional Hearing Clerk
r4_regional_hearing_clerk@epa.gov

and

Laurie Benton DiGaetano
benton-digaetano.laurie@epa.gov

106. "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-04-2023-2105(b)**.

107. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if 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 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 thirty (30) days of the Effective Date of this CAFO, interest is waived. However, if the civil penalty is not paid in full within thirty (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 or a stipulated penalty more than ninety (90) days past due, 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. 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 costs 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.

108. In addition to what is stated in the prior Paragraph, if 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 Respondent's licenses or other privileges, or suspend or disqualify 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.

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

VIII. EFFECT OF CAFO

110. In accordance with 40 C.F.R. § 22.18(c), Respondent's full compliance with this CAFO shall only resolve Respondent's liability for federal civil penalties for the violations and facts specifically alleged above.

111. 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).

112. 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).

113. Nothing in this CAFO shall relieve 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.

114. Nothing herein shall be construed to limit the power of the EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment as provided under the Act.

115. 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.

116. The provisions of this CAFO shall apply to and be binding upon Respondent and its successors and assigns. Respondent shall direct its officers, directors, employees, agents, trustees, and authorized representatives to comply with the provisions of this CAFO, as appropriate.

117. Any change in the legal status of Respondent, or change in ownership, partnership, corporate or legal status relating to the Facility, will not in any way alter Respondent's obligations and responsibilities under this CAFO.

118. By signing this Consent Agreement, 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.

119. By signing this Consent Agreement, the undersigned representatives of the Complainant and Respondent each certify that they are fully authorized to execute and enter into the terms and conditions of this CAFO and that they have the legal capacity to bind the party that they represent to this CAFO.

120. 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.

121. By signing this Consent Agreement, Respondent certifies that to Respondent's knowledge, 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. 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.

122. The EPA 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 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 Respondent notice of its intent to revoke, which shall not be effective until received by Respondent in writing.

123. Unless specifically stated otherwise in this CAFO, each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.

124. 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

125. 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 MacLean Power York, LLC*, Docket No. **RCRA-04-2023-2105(b)**, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:

Scott F. Jamieson 08.23.23.

Signature Date

Printed Name: Scott F. Jamieson.

Title: VP / General Manager MPS York.

Address: 7801 Park Place Rd. York, SC 29745.

The foregoing Consent Agreement *In the Matter of MacLean Power York, LLC*, Docket No. **RCRA-04-2023-2105(b),** is Hereby Stipulated, Agreed, and Approved for Entry.

FOR COMPLAINANT:

ARACELI CHAVEZ Digitally signed by ARACELI CHAVEZ Date: 2023.09.08 12:50:39 -04'00'

_____

Acting 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: MacLean Power York, LLC 7801 Park Place Road York, South Carolina 29745 EPA ID No.: SCD987579109 Respondent.	Docket No. **RCRA-04-2023-2105(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 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.

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 Digitally signed by TANYA FLOYD Date: 2023.09.11 08:57:06 -04'00'

Tanya Floyd
Regional Judicial Officer

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order, *In the Matter of MacLean Power York, LLC,* Docket No. **RCRA-04-2023-2105(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:
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