



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

AUG 10 2010

**VIA CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Col. Sue Mitchell  
Vice President  
The Citadel  
171 Moultrie Street  
Charleston, South Carolina 29409

RE: The Citadel  
Consent Agreement and Final Order (CAFO)  
Docket No. RCRA-04-2010-4010(b)

Dear Col. Mitchell:

Enclosed please find a copy of the executed CAFO as filed with the Regional Hearing Clerk (RHC) in the above-referenced matter. The CAFO is effective on the date it is filed with the RHC, and the penalty due date is calculated from the effective date.

If you have any questions, please feel free to contact me at (404) 562-9705.

Sincerely,

A handwritten signature in black ink that reads "Alfred R. Politzer".

Alfred R. Politzer  
Assistant Regional Counsel  
Office of Environmental Accountability

Enclosure

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4**

IN THE MATTER OF:	)	DOCKET NO.: RCRA-04-2010-4010(b)	
	)		
	)		
THE CITADEL	)	PROCEEDING UNDER SECTION	
171 MOULTRIE STREET	)	3008(a) OF THE RESOURCE	
CHARLESTON, SOUTH CAROLINA	)	CONSERVATION AND RECOVERY	
29409	)	ACT, 42 U.S.C. § 6928(a)	
EPA ID NO.: SCD 007 991 289	)		
RESPONDENT	)		
_____	)		

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RECEIVED  
EPA REGION 4

**CONSENT AGREEMENT**

**I. NATURE OF THE ACTION**

1. This is a civil administrative enforcement action, ordering compliance with the requirements of Subtitle C of the Resource Conservation and Recovery Act (RCRA), 42 United States Code (U.S.C.) § 6921, *et seq.*, and Title 44 Chapter 56 of the South Carolina Code Annotated (S.C. CODE ANN.). This action is seeking injunctive relief and the imposition of civil penalties pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for violations of RCRA and the regulations promulgated pursuant thereto at Title 40 of the Code of Federal Regulations (C.F.R.), Parts 260 - 268, 270 and 279; and S.C. CODE ANN. § 44-56-10, *et. seq.*, and the regulations promulgated pursuant thereto at Chapter 61 of the Code of Laws of South Carolina 1976 Annotated Regulations (S.C. CODE ANN. REGS. 61-79.124, *et. seq.*).
2. *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, provide that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order (CAFO). 40 C.F.R. §§ 22.13(b) and 22.18(b)(2).
3. The parties have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to settle this action. Accordingly, before any testimony has been taken upon the pleadings and without any admission of violation or adjudication of any issue of fact or law and in accordance with 40 C.F.R. § 22.13(b), the parties have agreed to the execution of this CAFO, and Respondent agrees to comply with the terms of this CAFO.

## **II. THE PARTIES**

4. Complainant is the Chief, RCRA and OPA Enforcement and Compliance Branch, RCRA Division, Region 4, United States Environmental Protection Agency (EPA).
5. Respondent is The Citadel, an educational institution doing business in the State of South Carolina, and located at 171 Moultrie Street, Charleston, South Carolina 29409.

## **III. PRELIMINARY STATEMENTS**

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the State of South Carolina has received final authorization to carry out a hazardous waste program in lieu of the federal program. The requirements of the authorized state program are found in S.C. CODE ANN. § 44-56-30, *et. seq.*, and S.C. CODE ANN. REGS. 61-79.124, *et. seq.*
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 upon their federal effective date regardless of the state's authorization status, and are implemented by EPA until the state is granted final authorization with respect to those requirements. South Carolina has received final authorization for its HSWA program.
8. Although EPA has granted South Carolina the authority to enforce its own hazardous waste program, EPA retains jurisdiction and authority to initiate an independent enforcement action, pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), to address violations of the authorized State program. EPA exercises this authority in the manner set forth in the Memorandum of Agreement between EPA and South Carolina.
9. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), Complainant gave written notice of this action to South Carolina before the issuance of this CAFO.
10. Section 3002(a) of RCRA, 42 U.S.C. § 6922(a), and S.C. CODE ANN. § 44-56-30, *et. seq.*, require the promulgation of standards applicable to generators of hazardous waste. The implementing regulations for these standards are found in 40 C.F.R. Part 262 and S.C. CODE ANN. REGS. 61-79.262.
11. Section 3004 of RCRA, 42 U.S.C. § 6924, and S.C. CODE ANN. § 44-56-30, *et. seq.*, require the promulgation of standards applicable to owners and operators of hazardous waste treatment, storage, and disposal facilities. The implementing regulations for these standards are found at 40 C.F.R. Part 264 and S.C. CODE ANN. REGS. 61-79.264.
12. Section 3005 of RCRA, 42 U.S.C. § 6925, and S.C. CODE ANN. § 44-56-30, *et. seq.*, set 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 40 C.F.R. Parts 264, 265, and 270, and S.C. CODE ANN. REGS. 61-79.264, 61-79.265, and 61-79.270.

13. Pursuant to 40 C.F.R. § 261.2 and S.C. CODE ANN. REGS. 61-79.261.2, a “solid waste” is any discarded material that is not otherwise excluded by regulation.
14. Pursuant to 40 C.F.R. § 261.3 and S.C. CODE ANN. REGS. 61-79.261.3, a solid waste is a “hazardous waste” if it is not excluded from regulation as a hazardous waste under 40 C.F.R. § 261.4(b) and S.C. CODE ANN. REGS. 61-79.261.4(b), and it meets any of the criteria specified in 40 C.F.R. § 261.3(a)(2) and S.C. CODE ANN. REGS. 61-79.261.3(a)(2).
15. Pursuant to 40 C.F.R. § 260.10 and S.C. CODE ANN. REGS. 61-79.260.10, a “generator” is defined as any person, by site, whose act or process produces hazardous waste identified or listed in 40 C.F.R. Part 261 and S.C. CODE ANN. REGS. 61-79.261, or whose act first causes a hazardous waste to become subject to regulation.
16. Pursuant to 40 C.F.R. § 260.10 and S.C. CODE ANN. REGS. 61-79.260.10, a “container” is defined as any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.
17. Pursuant to 40 C.F.R. § 273.9 and S.C. CODE ANN. REGS. 61-79.260.10, a “universal waste” is defined as any of the following hazardous wastes that are subject to the universal waste requirements set forth in 40 C.F.R. Part 273: (1) batteries as described in 40 C.F.R. § 273.2; (2) pesticides as described in 40 C.F.R. § 273.3; (3) mercury-containing equipment as described in 40 C.F.R. § 273.4; and (4) lamps as described in 40 C.F.R. § 273.5.
18. Pursuant to 40 C.F.R. § 273.9 and S.C. CODE ANN. REGS. 61-79.260.10, a “universal waste handler” is defined as: (1) a generator (as defined in 40 C.F.R. § 273.9) of universal waste; or (2) the owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates universal waste, and sends universal waste to another universal waste handler, to a destination facility, or to a foreign destination.
19. Pursuant to 40 C.F.R. § 273.9 and S.C. CODE ANN. REGS. 61-79.273.9, a “small quantity handler of universal waste” is defined as a universal waste handler who does not accumulate 5,000 kilograms or more of universal wastes at any time.
20. Pursuant to 40 C.F.R. § 262.34(d) and S.C. CODE ANN. REGS. 61-79.262.34(d), a generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month may accumulate hazardous waste onsite for 180 days or less without a permit or without having interim status provided that the generator complies with the management requirements listed in 40 C.F.R. §§ 262.34(d)(1)-(6) and S.C. CODE ANN. REGS. 61-79.262.34(d)(1)-(6) (hereinafter referred to as the “40 C.F.R. § 262.34(d) permit exemption”).

21. Pursuant to 40 C.F.R. § 262.34(d)(2) and S.C. CODE ANN. REGS. 262.34(d)(2), a condition of the 40 C.F.R. § 262.34(d) permit exemption requires a generator to comply with 40 C.F.R. § 262.34(a)(3) and S.C. CODE ANN. REGS. 61-79.265.173(c) and (d) (requiring that containers of hazardous waste be labeled with the words “Hazardous Waste – federal laws prohibit improper disposal” and with the appropriate EPA hazardous waste number).
22. Pursuant to 40 C.F.R. § 262.34(a)(2) and S.C. CODE ANN. REGS. 61-79.262.34(a)(2), a condition of the 40 C.F.R. § 262.34(d) permit exemption requires a generator to clearly mark the date accumulation begins on each container.
23. Pursuant to 40 C.F.R. § 262.34(c)(1)(ii) and S.C. CODE ANN. REGS. 61-79.262.34(c)(1)(ii), a generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste in containers at or near any point of generation where wastes initially accumulate (satellite accumulation area), without a permit or interim status, provided that he marks his containers either with the words “Hazardous Waste” or with other words that identify the contents of the container.
24. Pursuant to S.C. CODE ANN. REGS. 61-79.262.13(d) and 61-79.262.44(b), a generator must submit a revised or new notification of hazardous waste activity to the South Carolina Department of Health and Environmental Control (SCDHEC) whenever the information previously provided becomes outdated or inaccurate. Additionally, a generator must declare its status annually on or before January 31 by submission of a form as designated by SCDHEC on which it certifies that it is a small quantity generator and provisionally exempt from full regulation and that should its status change during the calendar year it will comply fully with all requirements including quarterly reporting.
25. Pursuant to 40 C.F.R. § 262.42(b) and S.C. CODE ANN. REGS. 61-79.262.42(b) and 61-79.262.44(c), a generator of greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 60 days of the date the waste was accepted by the initial transporter must submit to SCDHEC a copy of the manifest, with some indication that the generator has not received confirmation of delivery.
26. Pursuant to 40 C.F.R. § 262.34(f) and S.C. CODE ANN. REGS. 61-79.262.34(f), a generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month and who accumulates hazardous waste for more than 180 days is an operator of a storage facility and is subject to the permit requirements of 40 C.F.R. Part 270 and S.C. CODE ANN. REGS. 61-79.270.
27. Pursuant to 40 C.F.R. § 262.34(d)(5)(iii) and S.C. CODE ANN. REGS. 61-79.262.34(d)(5)(iii), a condition of the 40 C.F.R. § 262.34(d) permit exemption requires a generator to ensure that all employees are thoroughly familiar with proper

waste handling and emergency procedures, relevant to their responsibilities during normal facility operations and emergencies.

28. Pursuant to 40 C.F.R. § 265.174 and S.C. CODE ANN. REGS. 61-79.265.174, a condition of the 40 C.F.R. § 262.34(d) permit exemption requires a generator to inspect less than 180 day accumulation areas where containers are stored, at least weekly, looking for leaks and for deterioration caused by corrosion or other factors.
29. Pursuant to 40 C.F.R. § 273.13(d)(1) and S.C. CODE ANN. REGS. 61-79.273.13(d)(1), a small quantity handler of universal waste must manage lamps in a way that prevents releases of any universal waste to the environment by containing any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the content of the lamps. The containers and packages must remain closed, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.
30. Pursuant to 40 C.F.R. § 273.14(a) and S.C. CODE ANN. REGS. 61-79.273.14(a), a small quantity handler of universal waste must clearly mark universal waste batteries (i.e., each battery), or the container in which the batteries are contained with one of the following phrases: “Universal Waste - Battery(ies),” “Waste Battery(ies),” or “Used Battery(ies).”
31. Pursuant to 40 C.F.R. § 273.14(e) and S.C. CODE ANN. REGS. 61-79.273.14(e), a small quantity handler of universal waste must clearly label or mark universal waste lamps (i.e., each lamp), or the container in which the lamps are contained with one of the following phrases: “Universal Waste – Lamp(s),” “Waste Lamp(s),” or “Used Lamp(s).”
32. Pursuant to 40 C.F.R. § 273.15(c) and S.C. CODE ANN. REGS. 61-79.273.15(c), a small quantity handler of universal waste 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.

#### **IV. EPA ALLEGATIONS AND DETERMINATIONS**

33. Respondent is a “person” as defined in 40 C.F.R. § 260.10 and S.C. CODE ANN. REGS. 61-79.260.10.
34. Respondent is the “owner” and “operator” of a “facility,” as those terms are defined in 40 C.F.R. § 260.10 and S.C. CODE ANN. REGS. 61-79.260.10.
35. Respondent generates waste that is a “solid waste” as defined in 40 C.F.R. § 261.2 and S.C. CODE ANN. REGS. 61-79.261.2.
36. Respondent is a “generator” as defined in 40 C.F.R. § 260.10 and S.C. CODE ANN. REGS. 61-79.260.10.

37. Respondent generates waste that is a “universal waste” as defined in 40 C.F.R. § 273.9 and S.C. CODE ANN. REGS. 61-79.260.10.
38. Respondent is a “universal waste handler” as defined in 40 C.F.R. § 273.9 and S.C. CODE ANN. REGS. 61-79.260.10.
39. Respondent is a “small quantity handler of universal waste” as defined in 40 C.F.R. § 273.9 and S.C. CODE ANN. REGS. 61-79.273.9.
40. SCDHEC has assigned Respondent EPA ID number SCD 007 991 289.
41. Respondent is an educational institution that generates universal waste lamps, hazardous waste lamps, spent dry cleaning materials, and laboratory solvents and corrosives.
42. On February 12, 2009, EPA and SCDHEC conducted a RCRA Compliance Evaluation Inspection (CEI) of Respondent’s facility.
43. At the time of the February 12, 2009, CEI, Respondent was storing hazardous waste in containers that were not labeled with the words “Hazardous Waste – federal law prohibit improper disposal” or with the EPA hazardous waste number.
44. EPA therefore alleges that Respondent has violated Section 3005 of RCRA, 42 U.S.C. § 6925, and S.C. CODE ANN. 44-56-30, for storing hazardous waste without a permit or interim status, because Respondent failed to meet the 40 C.F.R. § 262.34(a)(3) and S.C. CODE ANN. REGS. 61-79.265.173(c)-(d) conditions of the 40 C.F.R. § 262.34(d) permit exemption.
45. At the time of the February 12, 2009, CEI, Respondent was storing hazardous waste in six containers that were not labeled with the beginning date of accumulation.
46. EPA therefore alleges that Respondent has violated Section 3005 of RCRA, 42 U.S.C. § 6925, and S.C. CODE ANN. 44-56-30, for storing hazardous waste without a permit or interim status, because Respondent failed to meet the 40 C.F.R. § 262.34(a)(2) and S.C. CODE ANN. REGS. 61-79.262.34(a)(2) condition of the 40 C.F.R. § 262.34(d) permit exemption.
47. At the time of the February 12, 2009, CEI, Respondent was storing one container of hazardous waste in a satellite accumulation area that was not labeled with the words “Hazardous Waste” or other words that identified the contents of the containers.
48. EPA therefore alleges that Respondent has violated Section 3005 of RCRA, 42 U.S.C. § 6925, and S.C. CODE ANN. § 44-56-30, for storing hazardous waste without a permit or interim status, because Respondent failed to meet the 40 C.F.R. § 262.34(c)(1)(ii) and S.C. CODE ANN. REGS. 61-79.262.34(c)(1)(ii) condition of the 40 C.F.R. § 262.34(d) permit exemption.

49. At the time of the February 12, 2009, CEI, Respondent failed to file a new notification of hazardous waste activity to SCHDEC when the information from the previously provided notification became outdated or inaccurate. Additionally, Respondent failed to send annual notifications from 1994 through 2009.
50. EPA therefore alleges that Respondent has violated S.C. CODE ANN. REGS. 61-79.262.13(d) and 61-79.262.44(b).
51. At the time of the February 12, 2009, CEI, Respondent failed to file an exception report for four manifests within 60 days of offering waste to the initial transporter.
52. EPA therefore alleges that Respondent has violated 40 C.F.R. § 262.42(b) and S.C. CODE ANN. REGS. 61-79.262.42(b) and 61-79.262.44(c).
53. At the time of the February 12, 2009, CEI, Respondent had been storing hazardous waste in Byrd Hall and near the motor pool for greater than 180 days (approximately five hundred and sixty one (561) days). As a result, pursuant to 40 C.F.R. § 262.34(f) and S.C. CODE ANN. REGS. 61-79.262.34(f), Respondent is an operator of a storage facility and subject to the permit requirements of 40 C.F.R. Part 270.
54. EPA therefore alleges that Respondent has violated Section 3005 of RCRA, 42 U.S.C. § 6925, and S.C. CODE ANN. § 44-56-30, because Respondent failed to comply with 40 C.F.R. Part 270, and by operating a storage facility without having interim status or a permit.
55. At the time of the February 12, 2009, CEI, Respondent had not conducted training for all personnel to ensure that they were thoroughly familiar with proper waste handling and emergency procedures relevant to their responsibilities during normal facility operation and emergencies.
56. EPA therefore alleges that Respondent has violated Section 3005 of RCRA, 42 U.S.C. § 6925, and S.C. CODE ANN. 44-56-30, for storing hazardous waste without a permit or interim status, because Respondent failed to meet the 40 C.F.R. § 262.34(d)(5)(iii) and S.C. CODE ANN. REGS. 61-79.262.34(d)(5)(iii) condition of the 40 C.F.R. § 262.34(d) permit exemption.
57. At the time of the February 12, 2009, CEI, Respondent was not conducting inspections on the first floor of Byrd Hall and underneath the covered area near the motor pool.
58. EPA therefore alleges that Respondent has violated Section 3005 of RCRA, 42 U.S.C. § 6925, and S.C. CODE ANN. 44-56-30, for storing hazardous waste without a permit or interim status, because Respondent failed to meet the 40 C.F.R. § 265.174 and S.C. CODE ANN. REGS. 61-79.265.174 condition of the 40 C.F.R. § 262.34(d) permit exemption.



59. At the time of the February 12, 2009, CEI, Respondent was storing universal waste (fluorescent light bulbs) in open containers.
60. EPA therefore alleges that Respondent has violated 40 C.F.R. § 273.13(d)(1) and S.C. CODE ANN. REGS. 61-79.273.13(d)(1).
61. At the time of the February 12, 2009, CEI, Respondent had not labeled universal waste batteries (i.e., each battery), or the container in which they were stored, with one of the following phrases: "Universal Waste - Battery(ies)," "Waste Battery(ies)," or "Used Battery(ies)."
62. EPA therefore alleges that Respondent has violated 40 C.F.R. § 273.14(a) and S.C. CODE ANN. REGS. 61-79.273.14(a).
63. At the time of the February 12, 2009, CEI, Respondent had not labeled universal waste lamps, or the container or package in which they were stored with one of the following phrases: "Universal Waste – Lamp(s)," "Waste Lamp(s)," or "Used Lamp(s)."
64. EPA therefore alleges that Respondent has violated 40 C.F.R. § 273.14(e) and S.C. CODE ANN. REGS. 61-79.273.14(e).
65. At the time of the February 12, 2009, CEI, Respondent was accumulating universal waste but was not able to demonstrate the length of time that the universal waste had been accumulated from the date it becomes a waste.
66. EPA therefore alleges that Respondent has violated 40 C.F.R. § 273.15(c) and S.C. CODE ANN. REGS. 61-79.273.15(c).

#### **V. TERMS OF AGREEMENT**

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

67. Within thirty (30) calendar days of receipt of the executed copy of this CAFO, Respondent shall submit to EPA and SCDHEC a certification signed by a duly authorized representative stating that the Facility is in compliance with RCRA and that all the violations alleged in this CAFO have been corrected.

This certification shall be as follows:

"I certify under penalty of law, to the best of my knowledge and belief that all violations alleged in this CAFO have been corrected. All work was done under my direction or supervision according to a system designed to assure that qualified personnel implemented and completed the required tasks. This certification is based on my inquiry of the person(s) who performed the tasks, or those persons directly responsible for the

person(s) who performed the tasks. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

68. The certifications required to be submitted under this CAFO shall be mailed to:

Nancy McKee, Acting Chief  
North Compliance and Enforcement Section  
RCRA and OPA Enforcement and Compliance Branch  
RCRA Division, US EPA Region IV  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8909

And to:

Daphne Neel, Director  
Bureau of Land and Waste Management, SCDHEC  
2900 Bull Street  
Columbia, South Carolina 29201

69. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set out in the above paragraphs pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928.
70. Respondent neither admits nor denies the factual allegations and determinations in this CAFO.
71. Respondent waives any right to contest the allegations and its right to appeal the proposed Final Order accompanying the Consent Agreement.
72. Respondent waives its right to challenge the validity of this CAFO and the settlement of the matters addressed in this CAFO based on the Paperwork Reduction Act.
73. Respondent waives any right 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.
74. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of RCRA. The parties agree that compliance with the terms of this CAFO shall resolve all of Respondent's liability for civil penalties for the violations and facts alleged and stipulated to in this CAFO.
75. Each party will pay its own costs and attorney's fees.

## **VI. PAYMENT OF CIVIL PENALTY**

76. Respondent consents to the payment of a civil penalty in the amount of FORTY-ONE THOUSAND DOLLARS (\$41,000.00) within thirty (30) calendar days of the effective date of this CAFO.
77. Payment shall be made by cashier's check, certified check, by electronic funds transfer (EFT), or by Automated Clearhouse (ACH) (also known as REX or remittance express). If paying by check, the check shall be payable to: **Treasurer, United States of America**, and the facility name and docket number for this matter shall be referenced on the face of the check. If the Respondent sends payment by the United States Postal Service, the payment shall be addressed to:

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

If the Respondent sends payment by non-United States Postal express mail delivery, the payment shall be sent to:

United States Bank  
Government Lockbox 979077  
United States Environmental Protection Agency  
Fines and Penalties  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, Missouri 63101  
(314) 418-1028

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

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

If paying by ACH, the Respondent shall remit payment to:

PNC Bank  
ABA: 051036706  
Account Number: 310006  
CTX Format Transaction Code 22 – checking  
United States Environmental Protection Agency  
808 17<sup>th</sup> Street, N.W.  
Washington, D.C. 20074  
Contact: Jesse White, (301) 887-6548

78. Respondent shall submit a copy of the payment to the following addressees:

Patricia Bullock  
Regional Hearing Clerk  
United States Environmental Protection Agency, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8909

And to:

Nancy McKee, Acting Chief  
North Enforcement and Compliance Section  
RCRA and OPA Enforcement and Compliance Branch  
RCRA Division  
United States Environmental Protection Agency, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8909

79. If Respondent fails to remit the civil penalty as agreed to herein, EPA is required to assess interest and penalties on debts owed to the United States and a charge to cover the costs of processing and handling the delinquent claim. Interest, at the statutory judgment rate provided for in 31 U.S.C. § 3717, will therefore begin to accrue on the civil penalty if not paid within 30 calendar days after the effective date of this Consent Agreement. Pursuant to 31 U.S.C. § 3717, Respondent must pay the following amounts on any amount overdue:

- a. Interest. Any unpaid portion of a civil penalty or stipulated penalty must bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Interest will therefore begin to accrue on a civil penalty or stipulated penalty if it is not paid by the last date required. Interest will be assessed at the rate of the United States Treasury tax and loan rate.
- b. Monthly Handling Charge. Respondent must pay a late payment handling charge of fifteen dollars (\$15.00) on any late payment, with an additional charge of fifteen dollars (\$15.00) for each subsequent thirty (30) calendar-day period over which an unpaid balance remains.

- c. Non-Payment Penalty. On any portion of a civil penalty or a stipulated penalty more than ninety (90) calendar days past due, Respondent must pay a non-payment penalty of six percent (6%) per annum, which will accrue from the date the penalty payment became due and is not paid. This non-payment is in addition to charges which accrue or may accrue under subparagraphs (a) and (b).

80. Penalties paid pursuant to this CAFO are not tax deductible under 26 U.S.C. § 162(f).

#### **VII. PARTIES BOUND**

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

#### **VIII. RESERVATION OF RIGHTS**

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

**IX. OTHER APPLICABLE LAWS**

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

**X. SERVICE OF DOCUMENTS**

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

Alfred Politzer  
Assistant Regional Counsel  
United States Environmental Protection Agency, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303  
(404) 562-9705

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

Col. Sue Mitchell, Vice President  
Finance & Business Affairs  
The Citadel  
171 Moultrie Street  
Charleston, South Carolina 29409  
(843) 953-4816

**XI. SEVERABILITY**

91. 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.

**XII. EFFECTIVE DATE**

92. The effective date of this CAFO is the date it is filed with the Regional Hearing Clerk.

**AGREED AND CONSENTED TO:**

**The Citadel**

By: Sue E Mitchell Dated: 7/19/10  
Col. Sue Mitchell, Vice President  
Finance & Business Affairs

**U.S. Environmental Protection Agency**

By: *[Signature]* <sup>for</sup> Dated: 07/29/10  
Caroline Y. F. Robinson, Chief  
RCRA and OPA Enforcement and Compliance Branch  
RCRA Division

THE CITADEL )  
171 MOULTRIE STREET )  
CHARLESTON, SOUTH CAROLINA )  
20409 )  
EPA ID NO.: SCD 007 991 289 )  
RESPONDENT )  
\_\_\_\_\_ )

PROCEEDING UNDER SECTION  
3008(a) OF THE RESOURCE  
CONSERVATION AND RECOVERY  
ACT, 42 U.S.C. § 6928(a)

**FINAL ORDER**

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

**BEING AGREED, IT IS SO ORDERED** this 6<sup>th</sup> day of August, 2010.

BY: A. Stanley Meiburg  
A. Stanley Meiburg  
Acting Regional Administrator  
United States Environmental Protection Agency, Region 4



**CERTIFICATE OF SERVICE**

I hereby certify that I have this day filed the original and a true and correct copy of the foregoing Consent Agreement and the attached Final Order (CAFO), in the Matter of The Citadel, Docket Number: RCRA-04-2010-4010(b), on August 10 2010, and on August 10 2010, served the parties listed below in the manner indicated:

Alfred Politzer, Assistant Regional Counsel (Via EPA Internal Mail)  
Office of Environmental Accountability  
United States Environmental Protection Agency, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8909

Col. Sue Mitchell, Vice President (Via Certified Mail – Return Receipt Requested)  
Finance & Business Affairs  
The Citadel  
171 Moultrie Street  
Charleston, South Carolina 29409

Quantindra Smith (Via EPA Internal mail)  
RCRA and OPA Enforcement and Compliance Branch  
U.S.EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8909

Date: August 10, 2010 Patricia A. Bullock  
Patricia A. Bullock, Regional Hearing Clerk  
United States Environmental Protection Agency, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303  
(404) 562-9511