

## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

## REGION 4

In the Matter of:

**Mankiewicz Coatings LLC**  
**1200 Charleston Regional Parkway**  
**Charleston, South Carolina 29492**  
EPA ID No.: SCR000783035

Respondent.

Docket No. RCRA-04-2023-2107(b)

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

**CONSENT AGREEMENT****I. NATURE OF ACTION**

1. This is an administrative penalty assessment proceeding brought under Section 3008(a) of the Resource Conservation and Recovery Act (RCRA or the Act), 42 U.S.C. § 6928(a), and Sections 22.13(b) and 22.18 of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (Consolidated Rules), as codified at Title 40 of the Code of Federal Regulations (C.F.R.), Part 22.
2. This Consent Agreement and the attached Final Order shall collectively be referred to as the CAFO.
3. Having found that settlement is consistent with the provisions and objectives of the Act and applicable regulations, the Parties have agreed to settle this action pursuant to 40 C.F.R. § 22.18 and consent to the entry of this CAFO without the Respondent's admission of alleged violations 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. The Respondent is Mankiewicz Coatings LLC, a limited liability corporation doing business in the State of South Carolina. This proceeding pertains to the Respondent's facility located at 1200 Charleston Regional Parkway, Charleston, 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 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. Section 44-56-30 of the SCHWMA, S.C. Code Ann. § 44-56-30 [Section 3002(a) of RCRA, 42 U.S.C. § 6922(a)], requires the promulgation of standards applicable to generators of hazardous waste. The implementing regulations for these standards are found at S.C. Code Ann. Regs. 61-79.262 [40 C.F.R. Part 262].
12. Section 44-56-60(a)(2) and (b) of the SCHWMA, S.C. Code Ann. § 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925], sets forth the requirement that a facility treating, storing, or disposing of hazardous waste must have a permit or interim status. The implementing regulations for this requirement are found at S.C. Code Ann. Regs. 61-79.264 (permitted) and S.C. Code Ann. Regs. 61-79.265 (interim status) [40 C.F.R. Parts 264 (permitted) and 265 (interim status)].
13. Pursuant to S.C. Code Ann. Regs. 61-79.261.2 [40 C.F.R. § 261.2], a "solid waste" is any discarded material that is not otherwise excluded from the regulations. A discarded material includes any material that is abandoned by being stored in lieu of being disposed.
14. Pursuant to S.C. Code Ann. Regs. 61-79.261.3 [40 C.F.R. § 261.3], a solid waste is a "hazardous waste" if it meets any of the criteria set forth in S.C. Code Ann. Regs. 61-79.261.3(a)(2) [40 C.F.R. § 261.3(a)(2)] and is not otherwise excluded from regulation as a hazardous waste by S.C. Code Ann. Regs. 61-79.261.4(b) [40 C.F.R. § 261.4(b)].

15. Pursuant to S.C. Code Ann. Regs. 61-79.261.3(a)(2)(i) and 61-79.261.20 [40 C.F.R. §§ 261.3(a)(2)(i) and 261.20], solid wastes that exhibit any of the characteristics identified in S.C. Code Ann. Regs. 61-79.261.21-24 [40 C.F.R. §§ 261.21-24] are characteristic hazardous waste and are provided with the EPA Hazardous Waste Numbers D001 through D043.
16. Pursuant to S.C. Code Ann. Regs. 61-79.261.20-21 [40 C.F.R. §§ 261.20-21], a solid waste that exhibits the characteristic of ignitability is a hazardous waste and is identified with the EPA Hazardous Waste Number D001.
17. Pursuant to S.C. Code Ann. Regs. 61-79.261.20 and 61-79.261.24 [40 C.F.R. §§ 261.20 and 261.24], a solid waste that exhibits the characteristic of toxicity is a hazardous waste and is identified with the EPA Hazardous Waste Number associated with the toxic contaminant causing it to be hazardous. 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 barium and chromium are identified with the EPA Hazardous Waste Numbers D005 and D007, respectively.
18. 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].
19. 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].
20. Pursuant to S.C. Code Ann. 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 “facility” includes all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste, or for managing hazardous secondary materials prior to reclamation. A facility may consist of several treatment, storage, or disposal operational units (e.g., one or more landfills, surface impoundments, or combinations of them).
22. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], a “person” includes an individual, trust, firm, joint stock company, Federal Agency, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of a state, or any interstate body.
23. 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.”
24. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], “storage” means the holding of a hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.

25. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], “container” means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.
26. Pursuant to S.C. Code Ann. Regs. 61-79.262.10 [40 C.F.R. § 262.10], a Large Quantity Generator (LQG) is a generator who generates greater than or equal to 1,000 kilograms (2,200 pounds) of non-acute hazardous waste in a calendar month.
27. 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 any 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) 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)(2) or 61-79.262.17(a) [40 C.F.R. § 262.16(b)(2) 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”).
28. 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: (i) with the words “Hazardous Waste” and (ii) with an indication of the hazards of the contents.
29. 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.
30. 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) 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”).
31. Pursuant to S.C. Code Ann. Regs. 61-79.262.17(a)(5)(i)(A)-(C) [40 C.F.R. § 262.17(a)(5)(i)(A)-(C)], which is a condition of the LQG Permit Exemption, a generator must mark or label its containers with the following: (A) the words “Hazardous Waste”; (B) an indication of the hazards of the contents; and (C) the date upon which each period of accumulation begins clearly visible for inspection on each container.
32. Pursuant to S.C. Code Ann. Regs. 61-79.262.17(a)(1)(iv)(A)-(B) [40 C.F.R. § 262.17(a)(1)(iv)(A)-(B)], which is a condition of the LQG Permit Exemption: (A) a container holding hazardous waste must always be closed during accumulation, except when it is necessary to add or remove waste; and (B) a container holding hazardous waste must not be opened, handled, or stored in a manner that may rupture the container or cause it to leak.

33. Pursuant to S.C. Code Ann. Regs. 61-79.262.17(a)(1)(ii) [40 C.F.R. § 262.17(a)(1)(ii)], which is a condition of the LQG Permit Exemption, if a container holding hazardous waste is not in good condition, or if it begins to leak, the generator must immediately transfer the hazardous waste from this container to a container that is in good condition, or immediately manage the waste in some other way that complies with the LQG Permit Exemption.
34. Pursuant to S.C. Code Ann. Regs. 61-79.262.17(a)(7)(i)-(iv) [40 C.F.R. § 262.17(a)(7)(i)-(iv)], which is a condition of the LQG Permit Exemption: (i) Facility personnel must successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the Facility's compliance with the regulations; (ii) Facility personnel must complete personnel training within six months of being hired or of being assigned to a new position at the Facility; (iii) Facility personnel must take part in an annual review of the initial training required by this section; and/or (iv) the generator must maintain training records that include, among others: the job title for each position at the Facility related to hazardous waste management, and the name of the employee filling each job; a written job description for each position; a written description of the type and amount of both introductory and continuing training that will be given to each person filling a position; and records documenting that the training required has been given to and completed by Facility personnel.
35. 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 central accumulation areas (CAA) looking for leaking containers and for deterioration of containers caused by corrosion or other factors.

#### **IV. FINDINGS OF FACTS**

36. The Respondent's Facility is located at 1200 Charleston Regional Parkway, Charleston, South Carolina.
37. The Respondent owns and operates a high-quality paint, top-coat, hardeners, and thinner manufacturing operation at its Facility.
38. The Respondent utilizes methyl ethyl ketone and acetone as solvents to perform cleaning operations on tanks and equipment used at the Facility to manufacture its products.
39. On January 1, 2021, the Respondent notified the South Carolina Department of Health and Environmental Control (SCDHEC) as a LQG of hazardous waste. Hazardous wastes identified within the Respondent's notification included D001 (ignitable), D005 (barium), and D007 (chromium) characteristic and F003 and F005 listed hazardous wastes.
40. On December 15, 2022, the EPA and SCDHEC conducted a compliance evaluation inspection (CEI) at the Respondent's Facility. The EPA's findings of the CEI were documented in a report emailed to the Respondent on January 31, 2023.
41. At the time of the CEI, the inspectors observed that the Respondent had failed to mark each of the following containers of hazardous waste within SAAs with the words "Hazardous Waste": one 55-gallon container in the Scratch-On Production Area, and one 55-gallon container in the Hardener/Thinner Production Area.

42. At the time of the CEI, the inspectors observed that the Respondent had failed to mark each of the following containers of hazardous waste within SAAs with an indication of the hazard of its contents: one 55-gallon container in the Scratch-On Production Area, and one 55-gallon container in the Hardener/Thinner Production Area.
43. At the time of the CEI, the inspectors observed one open 55-gallon container of hazardous waste within the Hardener/Thinner Production Area SAA.
44. At the time of the CEI, the inspectors observed 24 containers of hazardous waste within the CAA in the Cleaning Area that had exceeded 90 days of accumulation.
45. At the time of the CEI, the inspectors observed 30 55-gallon containers of hazardous waste within the CAA in the Cleaning Area that the Respondent had failed to mark with the words "Hazardous Waste."
46. At the time of the CEI, the inspectors observed one 55-gallon container of hazardous waste within the CAA in the Metallic Area and 34 55-gallon containers of hazardous waste within the CAA in the Cleaning Area that the Respondent had failed to label with an indication of the hazards of the contents.
47. At the time of the CEI, the inspectors observed one 275-gallon tote, 60 55-gallon containers, and one 15-gallon container of hazardous waste within the CAA in the Cleaning Area and one 55-gallon container of hazardous waste within the CAA in the Metallic Area that the Respondent had failed to mark with accumulation start dates.
48. At the time of the CEI, the inspectors observed nine open 55-gallon containers within the CAA in the Facility's Cleaning Area and one open 55-gallon container within the CAA in the Metallic Area.
49. At the time of the CEI, the inspectors observed five bulging 55-gallon containers, in poor condition, within the CAA in the Cleaning Area.
50. At the time of the CEI, the inspectors found that hazardous waste training records existed for only one of the Respondent's employees in the Order Clearing Department, and that the Respondent failed to provide hazardous waste training to additional personnel filling positions at the Facility related to hazardous waste management. The inspectors also found that Respondent failed to maintain records of job titles for each position at the Facility related to hazardous waste management and the names of personnel, the job descriptions, and the type and amount of training required for personnel filling those jobs.
51. At the time of the CEI, the inspectors found that the weekly inspection logs for the Respondent's CAA in the Cleaning Area did not identify leaking containers and deterioration of containers caused by corrosion or other factors. At the time of the CEI, the inspectors found that a weekly inspection for containers in the Metallic Area had not been performed following their generation on December 1, 2022.

## V. ALLEGED VIOLATIONS

52. The Respondent is a “person” as defined in S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10].
53. The Respondent is the “owner” and “operator” of a “facility” located at 1200 Charleston Regional Parkway, Charleston, South Carolina, as those terms are defined in S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10].
54. The Respondent is a “generator” of “solid waste” and “hazardous waste” as those terms are defined in S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10] and S.C. Code Ann. Regs. 61-79.261.2 and 61-79.261.3 [40 C.F.R. §§ 261.2 and 261.3].
55. The Respondent failed to label containers of hazardous waste being accumulated at its Facility in SAAs with the words “Hazardous Waste,” and with an indication of the hazards of the contents. The EPA therefore alleges that the Respondent violated Section 44-56-60(a)(2) and (b) of the SCHWMA, S.C. Code Ann. § 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because the Respondent failed to comply with the marking and labeling requirements in 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.
56. The Respondent failed to close a container of hazardous waste being accumulated at its facility in a SAA. The EPA therefore alleges the Respondent violated Section 44-56-60(a)(2) and (b) of the SCHWMA, S.C. Code Ann. § 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because the Respondent failed to comply with the closed container requirement in 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.
57. The Respondent accumulated containers of hazardous waste in excess of 90 days. The EPA therefore alleges that the Respondent violated Section 44-56-60(a)(2) and (b) of the SCHWMA, S.C. Code Ann. § 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste for more than 90 days without a permit or interim status.
58. The Respondent failed to label containers of hazardous waste being accumulated at its Facility in CAAs with the words “Hazardous Waste,” with an indication of the hazards of the contents, and with accumulation start dates. The EPA therefore alleges that the Respondent violated Section 44-56-60(a)(2) and (b) of the SCHWMA, S.C. Code Ann. § 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because the Respondent failed to comply with the marking and labeling requirements in 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.
59. The Respondent accumulated open containers of hazardous waste at its Facility in a CAA. The EPA therefore alleges that the Respondent violated Section 44-56-60(a)(2) and (b) of the SCHWMA, S.C. Code Ann. § 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because the Respondent failed to comply with the container management requirement in S.C. Code Ann. Regs.

61-79.262.17(a)(1)(iv) [40 C.F.R. § 262.17(a)(1)(iv)], which is a condition of the LQG Permit Exemption.

60. The Respondent accumulated hazardous waste in containers that were not in good condition at its Facility in a CAA. The EPA therefore alleges that the Respondent violated Section 44-56-60(a)(2) and (b) of the SCHWMA, S.C. Code Ann. § 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because the Respondent failed to comply with the container management requirement in S.C. Code Ann. Regs. 61-79.262.17(a)(1)(ii) [40 C.F.R. § 262.17(a)(1)(ii)], which is a condition of the LQG Permit Exemption.
61. The Respondent failed to provide hazardous waste training for all but one person filling positions at the Facility related to hazardous waste management and failed to maintain records of job titles for each position at the Facility related to hazardous waste management and the names of personnel, the job descriptions, and the type and amount of training required for personnel filling those jobs. In addition, the Respondent failed to have the job titles, job descriptions, required training for personnel, and employee names filling positions involved in the management of hazardous waste. The EPA therefore alleges that the Respondent violated Section 44-56-60(a)(2) and (b) of the SCHWMA, S.C. Code Ann. § 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because the Respondent failed to comply with the personnel training requirements in S.C. Code Ann. Regs. 61-79.262.17(a)(7) [40 C.F.R. § 262.17(a)(7)], which is a condition of the LQG Permit Exemption.
62. The Respondent failed to perform adequate weekly inspections at all of the Facility's hazardous waste CAAs. The EPA therefore alleges that the Respondent violated Section 44-56-60(a)(2) and (b) of the SCHWMA, S.C. Code Ann. § 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because the Respondent failed to comply with the inspection requirement in 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.

## **VI. STIPULATIONS**

63. The issuance of this CAFO simultaneously commences and concludes this proceeding under 40 C.F.R. § 22.13(b).
64. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), the Respondent:
  - a. admits that the EPA has jurisdiction over the subject matter alleged in this CAFO;
  - b. neither admits nor denies the factual allegations set forth in Section IV (Findings of Facts) of this CAFO;
  - c. consents to the assessment of a civil penalty as stated below;
  - d. consents to the conditions specified in this CAFO;



- e. waives any right to contest the allegations set forth in Section V (Alleged Violations) of this CAFO; and
- f. waives its rights to appeal the Final Order accompanying this CAFO.

65. For the purpose of this proceeding, the Respondent:

- a. agrees that this CAFO states a claim upon which relief may be granted against the Respondent;
- b. acknowledges that this CAFO constitutes an enforcement action for purposes of considering the Respondent's compliance history in any subsequent enforcement actions;
- c. waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that the Respondent may have with respect to any issue of fact or law set forth in this CAFO, including any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706;
- d. waives any rights it may possess at law or in equity to challenge the authority of the EPA to bring a civil action in a United States District Court to compel compliance with the CAFO, and to seek an additional penalty for such noncompliance, and agrees that federal law shall govern in any such civil action;
- e. waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to EPA officials where the purpose of such discussion, memorandum, or communication is to persuade such official to accept and issue this CAFO; and
- f. agrees to comply with the terms of this CAFO.

66. By executing this CAFO, the Respondent certifies to the best of its knowledge that the Respondent is currently in compliance with all relevant requirements of the Act and its implementing regulations, and that all violations alleged herein, which are neither admitted nor denied, have been corrected.
67. 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

68. The Respondent consents to the payment of a civil penalty, which was calculated in accordance with the Act, in the amount of **TWO HUNDRED TWENTY-FIVE THOUSAND DOLLARS (\$225,000)**, which is to be paid within 30 calendar days of the Effective Date of this CAFO.
69. Payment(s) shall be made by cashier's check, certified check, corporate 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 the Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

U. S. Environmental Protection Agency  
P.O. Box 979078  
St. Louis, Missouri 63197-9000

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

U.S. Environmental Protection Agency  
Government Lockbox 979078  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, Missouri 63101

- c. 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  
Beneficiary: Environmental Protection Agency

- d. If paying by ACH, the 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): 1-877-372-2457

70. Respondent shall send proof of payment, within 24 hours of payment of the civil penalty, to:

Regional Hearing Clerk  
r4\_regional\_hearing\_clerk@epa.gov

and

Daryl R. Himes

71. “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-04-2023-2107(b)**.
72. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if the Respondent fails to remit the civil penalty as agreed to herein, the EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the costs of processing and handling the delinquent claim. Accordingly, the EPA may require the Respondent to pay the following amounts on any amount overdue:
- a. Interest. Interest will begin to accrue on the civil penalty from the Effective Date of this CAFO. If the civil penalty is paid within 30 days of the Effective Date of this CAFO, interest is waived. However, if the civil penalty is not paid in full within 30 days, interest will continue to accrue on any unpaid portion until the unpaid portion of the civil penalty and accrued interest are paid. Interest will be assessed at the rate of the United States Treasury tax and loan rate, as established by the Secretary of the Treasury, in accordance with 31 U.S.C. § 3717(a)(1), 31 C.F.R. § 901.9(b)(2), and 40 C.F.R. § 13.11(a);
  - b. Non-Payment Penalty. On any portion of a civil penalty or a stipulated penalty more than 90 days past due, the Respondent must pay a non-payment penalty of not more than six percent (6%) per annum, which will accrue from the date the penalty payment became due and is not paid, as provided in 31 U.S.C. § 3717(e)(2) and 31 C.F.R. § 901.9(d). This non-payment penalty is in addition to charges which accrue or may accrue under subparagraphs (a) and (c) and will be assessed monthly. 40 C.F.R. § 13.11(c); and/or
  - c. Monthly Handling Charge. The Respondent must pay a late payment handling charge to cover the administrative costs of processing and handling the delinquent claim, based on either actual or average cost incurred. 31 C.F.R. § 901.9(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.
73. In addition to what is stated in the prior Paragraph, if the Respondent fails to timely pay any portion of the penalty assessed under this CAFO, the EPA may:
- a. refer the debt to a credit reporting agency or a collection agency (*see* 40 C.F.R. §§ 13.13 and 13.14);
  - b. collect the debt by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds (*see* 40 C.F.R. Part 13, Subparts C and H);

- c. suspend or revoke the Respondent's licenses or other privileges, or suspend or disqualify the Respondent from doing business with the EPA or engaging in programs the EPA sponsors or funds (*see* 40 C.F.R. § 13.17); and/or
- d. refer the debt to the Department of Justice as provided in 40 C.F.R. § 13.33. In any such judicial action, the validity, amount, and appropriateness of the penalty and of this CAFO shall not be subject to review.

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

### **VIII. EFFECT OF CAFO**

- 75. In accordance with 40 C.F.R. § 22.18(c), the Respondent's full compliance with this CAFO shall only resolve the Respondent's liability for federal civil penalties for the violations and facts specifically alleged above.
- 76. 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).
- 77. 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).
- 78. Nothing in this CAFO shall relieve the Respondent of the duty to comply with all applicable provisions of the Act and other federal, state, or local laws or statutes, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit, except as expressly provided herein.
- 79. Nothing herein shall be construed to limit the power of the EPA to undertake any action against the Respondent or any person in response to conditions that may present an imminent and substantial endangerment as provided under the Act.
- 80. 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.
- 81. The provisions of this CAFO shall apply to and be binding upon the Respondent and its successors and assigns. The Respondent shall direct its officers, directors, employees, agents, trustees, and authorized representatives to comply with the provisions of this CAFO, as appropriate.
- 82. Any change in the legal status of the Respondent, or change in ownership, partnership, corporate or legal status relating to the Facility, will not in any way alter the Respondent's obligations and responsibilities under this CAFO.

83. By signing this Consent Agreement, the Respondent acknowledges that this CAFO will be available to the public and agrees that this CAFO does not contain any confidential business information or personally identifiable information.
84. By signing this Consent Agreement, the Complainant, and the undersigned representative of the Respondent each certify that each person is fully authorized to execute and enter into the terms and conditions of this CAFO and has the legal capacity to bind the Party represented by that person to this CAFO.
85. 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.
86. By signing this Consent Agreement, the Respondent certifies that the information it has supplied concerning this matter was at the time of submission, and continues to be, true, accurate, and complete for each such submission, response, and statement. The Respondent acknowledges that there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.
87. The EPA also reserves the right to revoke this CAFO and settlement penalty if and to the extent that the EPA finds, after signing this CAFO, that any information provided by Respondent was materially false or inaccurate at the time such information was provided to the EPA. If such false or inaccurate material was provided, the EPA reserves the right to assess and collect any and all civil penalties for any violation described herein. The EPA shall give the Respondent notice of its intent to revoke, which shall not be effective until received by the Respondent in writing.
88. Unless specifically stated otherwise in this CAFO, each Party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.
89. 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**

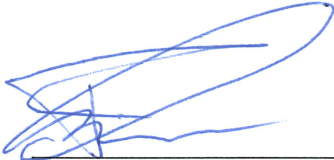
90. This CAFO shall become effective after execution of the Final Order by the Regional Judicial Officer, on the date of filing with the Regional Hearing Clerk.

**[Remainder of Page Intentionally Left Blank**

**Complainant and Respondent will Each Sign on Separate Pages.]**

The foregoing Consent Agreement *In the Matter of Mankiewicz Coatings LLC*, Docket No. **RCRA-04-2023-2107(b)**, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:



Signature

08/24/2023

Date

Printed Name: FABIAN GRIMM

Title: MANAGING DIRECTOR

Address: 1200 CHARLESTON REGIONAL PKWY, 29492 CHARLESTON, SC

The foregoing Consent Agreement *In the Matter of Mankiewicz Coatings LLC*, Docket No. **RCRA-04-2023-2107(b)**, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR COMPLAINANT:

---

Acting Chief  
Chemical Safety and Land Enforcement Branch  
Enforcement and Compliance Assurance Division  
U.S. Environmental Protection Agency, Region 4

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of:

**Mankiewicz Coatings LLC**  
**1200 Charleston Regional Parkway**  
**Charleston, South Carolina 29492**  
EPA ID No.: **SCR000783035**

Respondent.

Docket No. **RCRA-04-2023-2107(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 the Respondent. 40 C.F.R. §§ 22.4(b) and 22.18(b)(3). The foregoing Consent Agreement is, therefore, hereby approved, ratified, and incorporated by reference into this Final Order in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22.

The Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Final Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

**BEING AGREED, IT IS SO ORDERED.**

---

Tanya Floyd  
Regional Judicial Officer



## CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order, *In the Matter of Mankiewicz Coatings LLC*, Docket No. **RCRA-04-2023-2107(b)**, were filed and copies of the same were emailed to the Parties as indicated below.

**Via email to all Parties at the following email addresses:**

To Respondent:        Elizabeth A. Dieck  
                                 Counsel  
                                 Parker Poe  
                                 elizabethdieck@parkerpoe.com

To EPA:                    Daryl R. Himes  
                                 Environmental Engineer  
                                 himes.daryl@epa.gov

                                 Joshua K. Lee  
                                 Associate Regional Counsel  
                                 lee.joshua@epa.gov

                                 Quantindra Smith  
                                 Environmental Protection Specialist  
                                 smith.quantindra@epa.gov

\_\_\_\_\_  
Shannon L. Richardson, Regional Hearing Clerk  
r4\_regional\_hearing\_clerk@epa.gov