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**U.S. EPA REGION 4
HEARING CLERK**

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of:

**P & L Development, LLC
513 Old Griffin Road
Piedmont, South Carolina 29637
EPA ID No.: SCR000784553**

Respondent.

Docket No.: **RCRA-04-2025-4001(b)**

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

CONSENT AGREEMENT

I. NATURE OF ACTION

1. This is an administrative penalty assessment proceeding brought under Section 3008(a) of the Resource Conservation and Recovery Act (RCRA or the Act), 42 U.S.C. § 6928(a), and Sections 22.13(b) and 22.18 of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (Consolidated Rules), as codified at Title 40 of the Code of Federal Regulations (C.F.R.), Part 22.
2. This Consent Agreement and the attached Final Order shall collectively be referred to as the CAFO.
3. Having found that settlement is consistent with the provisions and objectives of the Act and applicable regulations, the Parties have agreed to settle this action pursuant to 40 C.F.R. § 22.18 and consent to the entry of this CAFO without the Respondent's admission of violation or adjudication of any issues of law or fact herein and Respondent neither admits nor denies specific factual allegations contained in the CAFO.

II. PARTIES

4. Complainant is the Director, 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 P & L Development, LLC (PLD), a limited liability company doing business in the State of South Carolina. This proceeding pertains to the Respondent's facility located at 513 Old Griffin Road, Piedmont, South Carolina 29637 (Facility).

III. GOVERNING LAW

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the State of South Carolina (State) has received final authorization to implement a hazardous waste program in lieu of the federal program set forth in RCRA. The requirements of the authorized State program are found in the South Carolina Hazardous Waste Management Act (SCHWMA), S.C. Code Ann. §§ 44-56-10 *et seq.*, and South Carolina Hazardous Waste Management Regulations (SCHWMR), S.C. Code Ann. Regs. 61-79.260-270 and 61-79.273.
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 [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. Section 44-55-60(a)(2) and (b) of the SCHWMA [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 61-79.265 (interim status) [40 C.F.R. Parts 264 (permitted) and 265 (interim status)].
13. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [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.

14. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], a “large quantity generator” (LQG) is a generator who generates greater than or equal to 1,000 kilograms (2,200 pounds (lbs)) of non-acute hazardous waste; or greater than one kilogram (2.2 lbs) of acute hazardous waste in a calendar month.
15. 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.
16. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], a “person” includes a corporation.
17. 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.”
18. 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 exhibits only the hazardous waste characteristic of ignitability found in S.C. Code Ann. Regs. 61-79.261.21 [40 C.F.R. § 261.21] due to the presence of one or more solvents that are not listed in S.C. Code Ann. Regs. 61-79.261 [40 C.F.R. Part 261].
19. 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.
20. 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)].
21. Pursuant to S.C. Code Ann. Regs. 61-79.261.3(a)(2)(i) and 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.
22. Pursuant to S.C. Code Ann. Regs. 61-79.261.20 and 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.
23. Pursuant to S.C. Code Ann. Regs. 61-79.261.20 and 261.22 [40 C.F.R. §§ 261.20 and 261.22], a solid waste that exhibits the characteristic of corrosivity is a hazardous waste and is identified with the EPA Hazardous Waste Number D002.

24. Pursuant to S.C. Code Ann. Regs. 61-79.261.20 and 261.23 [40 C.F.R. §§ 261.20 and 261.23], a solid waste that exhibits the characteristic of reactivity is a hazardous waste and is identified with the EPA Hazardous Waste Number D003.
25. Pursuant to S.C. Code Ann. Regs. 61-79.261.3(a)(2)(ii) and 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].
26. Listed hazardous wastes include the P- and U-Listed wastes identified in S.C. Code Ann. Regs. 61-79.261.33 [40 C.F.R. § 261.33].
27. Pursuant to S.C. Code Ann. Regs. 61-79.261.33 [40 C.F.R. §§ 261.33], nicotine and nicotine salts are listed as acute hazardous waste and are identified with the EPA Hazardous Waste Number P075.
28. Pursuant to S.C. Code Ann. Regs. 61-79.261.4(b)(18) [40 C.F.R. § 261.4(b)(18)], solvent-contaminated wipes, except for wipes that are hazardous waste due to the presence of trichloroethylene, that are sent for disposal are not hazardous waste from the point of generation, provided that the solvent-contaminated wipes meet the following requirements: (i) when accumulated, stored, and transported, are 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.
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 interim status, as required by Section 44-56-60(a)(2) and (b) of the SCHWMA [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)(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.
31. Pursuant to 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: (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.

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 central accumulation areas (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)(5)(i) [40 C.F.R. § 262.17(a)(5)(i)], which is a condition of the LQG Permit Exemption, a generator must mark or label its containers with the following: an indication of the hazards of the contents.
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. 61-79.262.251 [40 C.F.R. § 262.251] and is a condition of the LQG Permit Exemption, a LQG must maintain and operate its facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.
35. 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. 61-79.262.260 [40 C.F.R. § 262.260] and is a condition of the LQG Permit Exemption, a LQG must have a contingency plan for the facility.
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)-(e) [40 C.F.R. § 262.261(c)-(e)] and is a condition of the LQG Permit Exemption: (c) 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; (d) the plan must list names and emergency telephone numbers of all persons qualified to act as emergency coordinator (see S.C. Code Ann. Regs. 61-79.262.264), and this list must be kept up to date; and (e) the plan 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)(7) [40 C.F.R. § 262.17(a)(7)], which is a condition of the LQG Permit Exemption, a LQG must meet the following requirements and maintain documents and records at the facility: (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 (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.

38. Pursuant to S.C. Code Ann. Regs. 61-79.262.42(a)(2) [40 C.F.R. § 262.42(a)(2)], an authorized State requirement that is more stringent than the federal exception reporting requirement found in 40 C.F.R. § 262.42, a generator of 1,000 kilograms or greater of hazardous waste in a calendar month, or greater than one kilogram of acute hazardous waste listed in S.C. Code Ann. Regs 61-79.261.31 or 261.33(e) [40 C.F.R. §§ 261.31 or 261.33(e)] in a calendar month, must submit an Exception Report to the South Carolina Department of Environmental Services (DES) if it has not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 45 days of the date the waste was accepted by the initial transporter.¹
39. Pursuant to S.C. Code Ann. Regs. 61-79.262.41(a)(6), an authorized State requirement that is more stringent than the federal biennial reporting requirement found in 40 C.F.R. § 262.41, a LQG who ships any hazardous waste offsite to a treatment, storage, or disposal facility within the United States must prepare and, no later than 30 days after the end of each calendar quarter, submit a written report to the DES including, but not limited to the types and quantities of such wastes shipped for offsite treatment and disposal.

IV. FINDINGS OF FACTS

40. The Respondent, PLD, is a manufacturer, packager, and distributor of pharmaceutical and consumer healthcare products. At its Facility, PLD manufactures Modern Oral Nicotine (MON) pouch products. The Respondent uses nicotine polacrilex (NPR) as part of the MON production process.
41. The Respondent generates ignitable hazardous waste, which is identified with the EPA Hazardous Waste Number D001; corrosive hazardous waste, which is identified with the EPA Hazardous Waste Number D002; and reactive hazardous waste, which is identified with the EPA Hazardous Waste Number D003. In addition, nicotine or NPR waste no longer suitable for use in the production process is P075 hazardous waste.
42. The Respondent generates 1,000 kilograms or more of hazardous waste or one kilogram or more of acute hazardous waste in a calendar month and most recently notified as a LQG of hazardous waste on October 3, 2022.
43. On December 8, 2022, the EPA and the South Carolina Department of Health and Environmental Control (DHEC) conducted a RCRA compliance evaluation inspection (CEI) at the Respondent's Facility.
44. On February 27, 2023, the EPA mailed the Respondent an Opportunity to Show Cause Letter (Show Cause Letter) and a CEI Report documenting its findings from the December 8, 2022 CEI.

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

45. On March 10, 2023, the Respondent provided the EPA a response to the Show Cause Letter and CEI Report.
46. At the time of the CEI, the inspectors observed solvent-contaminated wipes, which are used for cleaning the First Aid Lines machinery, left to dry on the counters before disposal.
47. At the time of the CEI, the inspectors identified the following CAAs: MON Storage Area CAA, MON Manufacturing CAA, QC Lab CAA, and Baghouse CAA. These areas were accumulating over 2.2 pounds of acute hazardous waste and/or over 55 gallons of non-acute hazardous waste.
48. At the time of the CEI, the inspectors observed one cubic yard tote of liquid/sludge nicotine waste with dried waste NPR on top of the tote; another cubic yard tote of liquid/sludge nicotine waste with accumulated NPR waste in the open funnel of the tote and in the secondary containment pallet of the tote in the MON Storage Area CAA.
49. At the time of the CEI, the inspectors observed one cubic yard tote containing liquid/sludge nicotine waste with a cap that was not securely closed and contained a hole, and another cubic yard tote containing liquid/sludge nicotine waste with an open funnel that was not securely closed and latched in the MON Storage Area CAA.
50. At the time of the CEI, the inspectors reviewed the Facility's hazardous waste CAA weekly inspection logs which showed that the Respondent did not perform weekly inspections at the following CAAs: QC Lab CAA, MON Manufacturing CAA, and the Baghouse CAA.
51. At the time of the CEI, the inspectors observed a closed, blue 55-gallon container of hazardous waste nicotine outside of the laboratory that had the incorrect indication of hazard for corrosive waste instead of an indication of the hazard for toxic waste. The inspectors also observed that the following containers of hazardous waste were not marked with an indication of the hazards of the contents: two cubic yard cardboard totes of dry nicotine waste in the MON Storage Area CAA and three 55-gallon containers accumulating hazardous waste baghouse dust outside by the Baghouse in what the inspectors identified as the Baghouse CAA.
52. At the time of the CEI, the inspectors observed spilled NPR waste in multiple areas, including the following: (a) on top of one cubic yard tote of liquid/sludge nicotine waste; (b) inside an open funnel of another cubic yard tote of liquid/sludge nicotine waste, and on the secondary containment pallet of the tote in the MON Storage CAA; (c) spilled powdered NPR waste and NPR pouches on the pallet beneath a tote by the storage rack shelves in the MON Storage CAA; (d) dry NPR powdered waste observed on top of the totes' covers, on the pallets beneath the totes; (e) on the floor surrounding the totes in the MON Manufacturing Area; (f) and in the area surrounding the 55-gallon containers under the baghouse dust collection system .
53. At the time of the CEI, the inspectors reviewed the Facility's contingency plan which did not describe arrangements agreed to with the local emergency response entities; did not include an up-to-date list of emergency coordinators; and did not include a list of all emergency equipment at the Facility with a description of each of its capabilities, locations, and physical descriptions.

54. At the time of the CEI, the inspectors reviewed the Facility's RCRA training records which were only available for a select number of employees, mainly upper management. The Respondent was unable to provide training records for every employee handling hazardous waste at the Facility. The job descriptions for employees who perform hazardous waste management duties did not include a description of the hazardous waste-related duties related to their positions.
55. At the time of the CEI, the inspectors reviewed outgoing manifests and observed that two manifests were missing signatures from the designated facility: Manifest 021388957JJK (dated September 15, 2020) and Manifest 021388919JJK (dated August 6, 2020). PLD did not submit an Exception Report upon not receiving copies of each manifest with the handwritten signature of the owner or operator of the designated facility within 45 days of the date the waste was accepted by the initial transporter.
56. At the time of the CEI, the inspectors reviewed quarterly reports dating from 2019-2022. The Quarter 1 report from 2020 was incorrectly filled out. Manifest 021388956JJK (dated January 30, 2020 and received by the designated facility on February 18, 2020) had 12,000 lbs of waste NPR compounds being shipped out but was recorded as only having 6,020 lbs on the quarterly report.

V. ALLEGED VIOLATIONS

57. The Respondent is a "person" as defined in S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10].
58. The Respondent is the "owner" and "operator" of a "facility" located in Piedmont, South Carolina, as those terms are defined in S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10].
59. 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], 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.
60. The Respondent was a "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] on the date of the inspection.
61. The Respondent failed to manage and store solvent-contaminated rags used for cleaning the First Aid Lines machinery in a closed container and label it as "Excluded Solvent-Contaminated Wipes." The EPA therefore alleges that the Respondent violated Section 44-56-60(a)(2) and (b) of the SCHWMA [Section 3005 of RCRA, 42 U.S.C. § 6925], by accumulating hazardous waste without a permit, because the Respondent failed to manage solvent-contaminated wipes in compliance with the solvent-contaminated wipes exclusion in S.C. Code Ann. Regs. 61-79.261.4(b)(18) [40 C.F.R. § 261.4(b)(18)].
62. In the MON Storage Area CAA, there was NPR material observed on top of one cubic yard tote of liquid/sludge nicotine waste; accumulated NPR material in the open funnel of another cubic yard tote of liquid/sludge nicotine waste and in the secondary containment pallet of the same

tote. This material appeared to be no longer suitable for commercial or technical grade and therefore accumulated as NPR waste. The Respondent failed to transfer this waste into an appropriate hazardous waste container. The EPA therefore alleges that the Respondent violated Section 44-56-60(a)(2) and (b) of the SCHWMA [Section 3005 of RCRA, 42 U.S.C. § 6925], by not transferring hazardous waste to a container that is in good condition or managing the waste in some other way that complies with the LQG Permit Exemption as required by 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.

63. The Respondent failed to close one cubic yard tote containing liquid/sludge nicotine waste with a cap that was not securely closed and contained a hole, and another cubic yard tote containing liquid/sludge nicotine waste with an open funnel that was not securely closed and latched in the MON Storage Area CAA. The EPA therefore alleges that the Respondent violated Section 44-56-60(a)(2) and (b) of the SCHWMA [Section 3005 of RCRA, 42 U.S.C. § 6925], by not keeping the containers holding hazardous waste closed during accumulation, except when it is necessary to add or remove waste as required by 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.
64. The Respondent was not performing weekly inspections of the QC Lab CAA, the MON Manufacturing CAA, and the Bag House CAA. The EPA therefore alleges that the Respondent violated Section 44-56-60(a)(2) and (b) of the SCHWMA [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because the Respondent failed to, at least weekly, inspect CAAs looking for leaking containers and for deterioration of containers caused by corrosion or other factors 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.
65. The Respondent failed to mark the following containers with an indication of the hazards of the contents: one closed, blue 55-gallon container of hazardous waste nicotine outside of the laboratory that had the incorrect indication of hazard for corrosive waste when the hazard of the contents were toxic; two cubic yard cardboard totes of dry nicotine waste in the MON Storage Area CAA that were not marked with an indication of hazard; and three 55-gallon containers collecting baghouse dust that were not marked 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 [Section 3005 of RCRA, 42 U.S.C. § 6925], by failing to mark the containers with an indication of the hazards of the contents 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.
66. The Respondent failed to contain dried NPR waste that was observed on top of one cubic yard tote of liquid/sludge NPR waste, inside an open funnel of another cubic yard tote of liquid/sludge NPR waste and on top of the tote, and on the secondary containment pallet of two totes in the MON Storage CAA. The Respondent also failed to contain powdered NPR waste and NPR pouches observed on the pallet beneath a tote by the storage rack shelves in the MON Storage CAA, dry NPR powdered waste observed on top of the totes' covers, on the pallets

beneath the totes, and on the floor surrounding the totes in the MON Manufacturing Area. The Respondent also failed to contain spilled NPR waste accumulated for discard in the area surrounding the 55-gallon containers under the baghouse dust collection system. This NPR material was not suitable commercial or technical grade material. The EPA therefore alleges that the Respondent violated Section 44-56-60(a)(2) and (b) of the SCHWMA [Section 3005 of RCRA, 42 U.S.C. § 6925], by failing to maintain and operate its facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water 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. 61-79.262.251 [40 C.F.R. § 262.251] and is a condition of the LQG Permit Exemption.

67. The Respondent failed to include in the Facility's contingency plan a description of arrangements agreed to with the local emergency response entities, an up-to-date list of emergency coordinators, and a list, with the location and a physical description, of all emergency equipment at the Facility, and a brief outline of its capabilities. The EPA therefore alleges that the Respondent violated Section 44-56-60(a)(2) and (b) of the SCHWMA [Section 3005 of RCRA, 42 U.S.C. § 6925] by failing to describe arrangements agreed to with the local emergency responders; maintain an up-to-date list of names and emergency telephone numbers of all persons qualified to act as emergency coordinator; and include a list of all emergency equipment at the Facility including the location and a physical description of each item on the list, and a brief outline of its capabilities 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)-(e) [40 C.F.R. § 262.261(c)-(e)] and is a condition of the LQG Permit Exemption.
68. The Respondent failed to provide hazardous waste training records for all employees handling hazardous wastes and failed to include the hazardous waste related duties in the employee job description of Facility personnel performing hazardous waste management duties. The EPA therefore alleges that the Respondent violated Section 44-56-60(a)(2) and (b) of the SCHWMA [Section 3005 of RCRA, 42 U.S.C. § 6925] by failing to maintain documentation of annual personnel training for all employees handling hazardous waste and failing to include the hazardous waste related duties of Facility personnel in employee job descriptions for employees handling hazardous waste as required by 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.
69. The Respondent failed to submit an Exception Report for Manifests 021388957JJK and 021388919JJK, which were missing the handwritten signature of the owner or operator of the designated facility within 45 days of the date the waste was accepted by the initial transporter. The EPA therefore alleges that the Respondent violated S.C. Code Ann. Regs. 61-79.262.42(a)(2) [40 C.F.R. § 262.42(a)(2)], an authorized State requirement that is more stringent than the federal exception reporting requirement found in 40 C.F.R. § 262.42, by failing to submit an Exception Report to the DES within 45 days of the date the waste was accepted by the initial transporter.
70. The Respondent failed to accurately complete the Quarter 1 report from 2020 for Manifest 021388956JJK (dated January 30, 2020; received by the designated facility on February 18,

2020) which had 12,000 lbs of waste NPR compounds being shipped out but was incorrectly recorded as only having 6,020 lbs on the report. The EPA therefore alleges that the Respondent violated S.C. Code Ann. Regs. 61-79.262.41(a)(6), an authorized State requirement that is more stringent than the federal biennial reporting requirement found in 40 C.F.R. § 262.41, by failing to submit a correct written report to the DES including, but not limited to, the types and quantities of such wastes shipped for offsite treatment and disposal.

VI. STIPULATIONS

71. The issuance of this CAFO simultaneously commences and concludes this proceeding. 40 C.F.R. § 22.13(b).
72. 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.
73. 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;
 - f. waives any rights or defenses that the Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the Final Order accompanying this Consent Agreement; and
 - g. agrees to comply with the terms of this CAFO.
74. By executing this CAFO, the Respondent certifies to the best of its knowledge that the Respondent is currently in compliance with the authorized State program found in the SCHWMA and the SCHWMR, and the Act and its implementing regulations, and that all violations alleged herein, which are neither admitted nor denied, have been corrected.
75. 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

76. The Respondent consents to the payment of a civil penalty, which was calculated in accordance with the Act, in the amount of **ONE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS (\$175,000.00)**, which is to be paid within thirty (30) days of the Effective Date of this CAFO.
77. The Respondent shall pay the civil penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the following EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions, see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>. However, for any payments made after September 30, 2025, and in accordance with the March 25, 2025, Executive Order on *Modernizing Payments To and From America's Bank Account*, the Respondent shall pay using one of the electronic payment methods listed on <https://www.epa.gov/financial/makepayment> and will not pay with a paper check. In addition, the Respondent shall identify every payment with the Respondent's name and the docket number of this CAFO, Docket No. RCRA-04-2025-4001(b).
78. The Respondent shall send proof of payment, within twenty-four (24) hours of payment of the civil penalty, to:

Regional Hearing Clerk
R4_Regional_Hearing_Clerk@epa.gov

and

Kayla Acosta
Chemical Safety and Land Enforcement Branch
Enforcement and Compliance Assurance Division
acosta.kayla@epa.gov

and

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

79. "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 Respondent's name and Docket No. RCRA-04-2025-4001(b).
80. 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 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 more than ninety (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
 - 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 costs incurred. 31 C.F.R. § 901.9(b) 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.

81. 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.
82. Penalties paid pursuant to this CAFO shall not be deductible for purposes of federal taxes.
83. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, the EPA is required to send a completed Form 1098-F ("Fines, Penalties, and Other Amounts") to the Internal Revenue Service (IRS) annually with respect to any court order and settlement agreement (including administrative settlements), that requires a payor to pay an aggregate amount that the EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor's violation of any law or the investigation or inquiry into the payor's potential violation of any law, including amounts paid for "restitution or remediation of property" or to come "into compliance with a law." The EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (for example, a copy of Form 1098-F). In order to provide the EPA with sufficient information to enable it to fulfill these obligations, the EPA herein requires, and the Respondent herein agrees, that:
- a. The Respondent shall complete a Form W-9 ("Request for Taxpayer Identification Number and Certification"), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
 - b. The Respondent shall therein certify that its completed Form W-9 includes the Respondent's correct Tax Identification Number (TIN) or that the Respondent has applied and is waiting for issuance of a TIN;
 - c. The Respondent shall email its completed Form W-9 to EPA's Cincinnati Finance Center Region 4's contact, Jessica Henderson (Henderson.Jessica@epa.gov), on or before the date that the Respondent's initial penalty payment is due,

pursuant to Paragraph 76 of this CAFO, and the EPA recommends encrypting Form W-9 email correspondence; and

- d. In the event that the Respondent has certified in its completed Form W-9 that it has applied for a TIN and that TIN has not been issued to the Respondent by the date that its initial penalty payment is due, then the Respondent, using the same email address identified in the preceding sub-paragraph, shall further:
 - i. Notify the EPA's Cincinnati Finance Center of this fact, via email, by the date that the Respondent's initial penalty payment is due; and
 - ii. provide the EPA's Cincinnati Finance Center with the Respondent's TIN, via email, within five (5) days of the Respondent's issuance and receipt of the TIN.

- 84. Failure to comply with providing Form W-9 or TIN may subject the Respondent to a penalty. See 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1.

VIII. WORK TO BE PERFORMED

- 85. The Respondent shall develop and implement a standard operating procedure (SOP) for the routine cleaning, removal, and disposal of uncontained NPR waste within the Facility and at the baghouse and baghouse CAA located outside. The Respondent shall submit the SOP to the EPA within thirty (30) days of the Effective Date of this CAFO.
- 86. The Respondent shall conduct yearly industrial hygiene sampling events at the Facility to analyze, identify, and measure workplace hazards or stresses that can cause sickness, impaired health, or significant discomfort in workers through chemical, physical, ergonomic, or biological exposures pursuant to Occupational Safety and Health Administration (OSHA)'s guidelines and recommendations.

IX. EFFECT OF CAFO

- 87. 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.
- 88. Full payment of the civil penalty, as provided in Section VII (Terms of Payment) and completion of the work to be performed in Section VIII (Work to be Performed), 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).
- 89. 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).

90. 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.
91. 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.
92. 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.
93. 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.
94. 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.
95. 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.
96. 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.
97. 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.
98. 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.
99. The EPA also reserves the right to revoke this CAFO and settlement penalty if and to the extent that the EPA finds, after signing this CAFO, that any information provided by the Respondent was materially false or inaccurate at the time such information was provided to the EPA. If such false or inaccurate material was provided, the EPA reserves the right to assess and collect any

and all civil penalties for any violation described herein. The EPA shall give the Respondent notice of its intent to revoke, which shall not be effective until received by the Respondent in writing.

100. Unless specifically stated otherwise in this CAFO, each Party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.
101. 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.

X. EFFECTIVE DATE

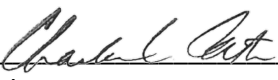
102. This CAFO shall become effective after execution of the Final Order by the Regional Judicial Officer, on the date of filing with the Regional Hearing Clerk.

[Remainder of Page Intentionally Left Blank

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

The foregoing Consent Agreement, *In the Matter of* P & L Development, LLC, Docket No. RCRA-04-2025-4001(b), is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:



Signature

9/16/25

Date

Printed Name: Charles Cain

Title: General Counsel/Chief Administration Officer

Address: 200 Hicks Street, Westbury NY 11590

The foregoing Consent Agreement, *In the Matter of P & L Development, LLC*, Docket No. RCRA-04-2025-4001(b), is Hereby Stipulated, Agreed, and Approved for Entry.

FOR COMPLAINANT:

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

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of:

P & L Development, LLC
513 Old Griffin Road
Piedmont, South Carolina 29637
EPA ID No.: **SCR000784553**

Respondent.

Docket No. **RCRA-04-2025-4001(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.

Regional Judicial Officer

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order, *In the Matter of P & L Development, LLC*, Docket No. RCRA-04-2025-4001(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:

Respondent: Ethan R. Ware
Attorney
Williams Mullen
eware@williamsmullen.com
803-567-4610

EPA: Kayla Acosta
Physical Scientist
acosta.kayla@epa.gov
404-562-8451

Joshua Lee
Associate Regional Counsel
lee.joshua@epa.gov
404-562-9255

Regional Hearing Clerk
R4_Regional_Hearing_Clerk@epa.gov