UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I

IN THE MATTER OF: Nitto Denko Avecia, Inc. 155 Fortune Boulevard Milford, MA 01757 Proceeding under Section 3008(a) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6928(a)	**Docket No. RCRA-01-2026-0014** **CONSENT AGREEMENT AND FINAL ORDER**

CONSENT AGREEMENT

I. PRELIMINARY STATEMENT

1. The U.S. Environmental Protection Agency ("EPA"), Region 1, alleges that Nitto Denko Avecia, Inc. ("Nitto Denko" or "Respondent") has violated the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6901–6987, and regulations promulgated or authorized pursuant to RCRA, at Nitto Denko's facilities located at 155 Fortune Blvd., Milford, MA, 01757 (RCRA ID: MAD980671846) and 125 Fortune Blvd., Milford, MA, 01757 (RCRA ID: MA5000001792). EPA Region 1 ("Complainant") and Nitto Denko (together, the "Parties") have agreed to settle this matter through this Consent Agreement and Final Order ("CAFO"). EPA's procedural regulations governing administrative enforcement actions and settlements are set out in the Consolidated Rules of Practice ("Consolidated Rules") at 40 C.F.R. Part 22. Pursuant to 40 C.F.R. § 22.13(b) of the Consolidated Rules, this CAFO simultaneously commences and concludes this action.

2. EPA has given notice of this RCRA enforcement action to Massachusetts pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

3. The Parties have agreed that settlement of this matter is in the public interest and that entry of this CAFO without further litigation is the most appropriate means of resolving the matter.

II. BACKGROUND FACTS

4. Nitto Denko Avecia, Inc. is a private biotechnology company focused on oligonucleotide production that operates two campuses located at 125 and 155 Fortune Blvd. in Milford, Massachusetts (the "Facilities").

5. On September 19, 20 and 21, 2023, EPA representatives conducted a hazardous waste compliance evaluation inspection ("EPA Inspection") at the Facilities.

6. At various times after the EPA Inspection, Nitto Denko provided follow-up compliance information to EPA.

III. ALLEGED RCRA VIOLATIONS

A. RCRA Statutory and Legal Framework

7. Pursuant to Subtitle C of RCRA, 42 U.S.C. §§ 6921–6939g, EPA has promulgated regulations, codified at 40 C.F.R. Parts 260 through 271, that set forth standards and requirements applicable to generators of hazardous waste and to owners and operators of facilities that treat, store, or dispose of hazardous waste.

8. Pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, EPA may authorize a state to administer the RCRA hazardous waste program in lieu of the federal program when EPA deems the state program to be equivalent to the federal program.

9. On January 24, 1985, EPA granted final authorization to Massachusetts to administer its hazardous waste program in lieu of the federal program. *See* 50 Fed. Reg. 3344 (January 24, 1985). That authorization became effective on February 7, 1985. Effective

November 30, 1998, October 12, 1999, March 12, 2004, March 31, 2008, August 23, 2010, and March 7, 2022, Massachusetts received final authorization for additional hazardous waste rules. The federally authorized Massachusetts regulations, together with other state hazardous waste regulations, are codified in Title 310, Chapter 30 of the Code of Massachusetts Regulations ("C.M.R."), 310 C.M.R. 30.000 *et seq*. (the "Massachusetts Hazardous Waste Regulations"). Massachusetts is not authorized for the RCRA air emission standards set forth at 40 C.F.R. Part 265, Subparts AA, BB and CC. Therefore, only EPA may enforce those regulations.

10. Pursuant to Sections 3006(g) and 3008(a) of RCRA, 42 U.S.C. § 6926(g) and 6928(a), EPA may enforce violations of the requirements of RCRA by issuing administrative orders to assess civil penalties and require compliance.

11. Pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended through 2015 ("FCPIAA"), and the FCPIAA's implementing regulations set out at 40 C.F.R. Part 19, violations of RCRA-related requirements that occur after November 2, 2015, for which penalties are assessed on or after December 27, 2023, are currently subject to penalties of up to $124,426 per day for each violation. *See* 90 Fed. Reg. 1375, 1378 (Jan. 8, 2025).

B. General Allegations

12. Respondent is a corporation and a "person" within the meaning of Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and 310 C.M.R. 30.010. At all times relevant to the allegations set forth in this CAFO, Respondent has been the "owner" and "operator" of the Facilities as defined in 40 C.F.R. § 260.10 and 310 C.M.R 30.010.

13. At all times relevant to the allegations set forth in this CAFO, Respondent's Facilities generated "hazardous waste" as defined in Section 1004(5) of RCRA, 42 U.S.C. § 6903(5), and 310 C.M.R. 30.010. Respondent is, therefore, subject to the standards for

generators of hazardous waste set forth in the Massachusetts Hazardous Waste Regulations, 310 C.M.R. 30.000 *et seq*.

14. Pursuant to 310 C.M.R. 30.340(1), a generator who is not a Small Quantity Generator pursuant to 310 C.M.R. 30.351 or a Very Small Quantity Generator pursuant to 310 C.M.R. 30.353 is a Large Quantity Generator.

15. Pursuant to 310 C.M.R. 30.340(2), a Large Quantity Generator must comply with the requirements set forth or referred to in 310 C.M.R. 30.340 through 30.343, and with all other applicable requirements of 310 C.M.R. 30.000.

16. Pursuant to 310 C.M.R. 30.340(3), a Large Quantity Generator may manage its universal wastes in compliance with 310 C.M.R. 30.1000.

17. Pursuant to 310 C.M.R. 30.340(4), a Large Quantity Generator may accumulate hazardous waste at the site of generation for 90 days or less without a storage license and without obtaining interim status provided that (a) the waste is accumulated in compliance with the general accumulation standards of 310 C.M.R. 30.341; and (b) the waste is accumulated in containers managed in compliance with 310 C.M.R. 30.342 or in tanks managed in compliance with 310 C.M.R. 30.343.

18. At all times relevant to the violations alleged in this CAFO, Respondent has been and is a "Large Quantity Generator" of hazardous waste, within the meaning of 310 C.M.R. 30.340(1), based on the amount of hazardous waste generated and accumulated on site during the period of the RCRA violations alleged herein.

19. Respondent has never applied for or obtained a license for the treatment, storage, or disposal of hazardous wastes ("TSD license") at either of the Facilities.

20. In order to store hazardous waste for 90 days or less without obtaining a TSD

license or having interim status, the Facilities must comply with the conditions found in the applicable provisions of the Massachusetts Hazardous Waste Regulations, 310 C.M.R. 30.000 *et seq*. and in the federal regulations set forth at 40 C.F.R. § 262.34 (renumbered as 40 C.F.R. § 262.17).

21. At all times relevant to the allegations set forth in this CAFO, Respondent's Facilities had equipment that contained or contacted hazardous waste with organic concentrations of at least 10 percent by weight that are managed in a unit that is exempt from permitting (i.e., a "90-day" tank) under the provisions of 40 C.F.R. § 262.17 (formerly 262.34). Respondent is, therefore, subject to the air emission standards for equipment leaks set forth in 40 C.F.R. § 265.1050 through 265.1079 ("Subpart BB").

22. At all times relevant to the allegations set forth in this CAFO, the Facilities stored in tanks, hazardous waste that is greater than or equal to 500 ppm by weight volatile organic at the point of waste origination. Respondent is, therefore, subject to the air emission standards for tanks set forth in 40 C.F.R. §§ 265.1080 through 265.1090 ("Subpart CC").

23. At all times relevant to the allegations set forth in this CAFO, Respondent stored hazardous waste within stationary tanks located on-site at the Facilities. Respondent is, therefore, subject to the tank standards found in 310 C.M.R 30.691 through 310 C.M.R. 30.699.

C. RCRA Violations

Count 1: Failure to Determine Applicability and Comply with the Hazardous Waste Organic Air Emission Standards for Equipment (Subpart BB)

24. Paragraphs 1 through 23 are incorporated by reference as if fully set forth herein.

25. Pursuant to 40 C.F.R. § 262.34(a)(1)(ii) (renumbered as 40 C.F.R. § 262.17(a)(2)), a generator that accumulates hazardous waste in tanks on-site for 90 days or

less, without a permit, must comply with the requirements of Subpart BB of 40 C.F.R. Part 265 ("Subpart BB").

26. Pursuant to 40 C.F.R. § 265.1050(c), as referenced by 40 C.F.R. § 262.34(a)(1)(ii) (renumbered as 40 C.F.R. § 262.17(a)(2)), each piece of equipment to which Subpart BB applies, must be marked in such a manner that it can be distinguished readily from other pieces of equipment.

27. Pursuant to 40 C.F.R. § 265.1052(a)(1), as referenced by 40 C.F.R. § 262.34(a)(1)(ii) (renumbered as 40 C.F.R. § 262.17(a)(2)), each pump in light liquid service shall be monitored monthly to detect leaks by the methods specified in 256.1063(b).

28. Pursuant to 40 C.F.R. 265.1052(a)(2), as referenced by 40 C.F.R. § 262.34(a)(1)(ii) (renumbered as 40 C.F.R. § 262.17(a)(2)), each pump in light liquid service shall be checked by visual inspection each calendar week for indications of liquids dripping from the pump seal.

29. Pursuant to 40 C.F.R. § 265.1057(a), as referenced by 40 C.F.R. § 262.34(a)(1)(ii) (renumbered as 40 C.F.R. § 262.17(a)(2)), each valve in gas/vapor or light liquid service shall be monitored monthly to detect leaks by the methods specified in 256.1063(b).

30. Pursuant to 40 C.F.R. 265.1064, as referenced by 40 C.F.R. § 262.34(a)(1)(ii) (renumbered as 40 C.F.R. § 262.17(a)(2)), owners and operators must record all required information in the facility operating record.

31. The facility must also develop, document, and implement a Leak Detection and Repair ("LDAR") monitoring plan in compliance with the recordkeeping requirements found in 40 C.F.R. 265.1064(b).

32. At the time of the EPA Inspection, Respondent managed hazardous waste with an organic concentration of 10% or greater. Respondent had not determined nor documented applicability of Subpart BB for the hazardous waste transfer equipment used within the Facilities. Additionally, Nitto Denko had no markings or tags adhered to subject equipment and did not have LDAR monitoring programs in place for the Facilities.

33. By failing to make applicability determinations, mark or tag subject equipment, and record the equipment subject to Subpart BB in the Facilities' operating records (or implement LDAR programs to monitor subject equipment at both Facilities), Respondent violated 40 C.F.R. §§ 265.1050(c), 265.1052(a)(1), 265.1052(a)(2), 265.1057(a) and 265.1064, as referenced by 40 C.F.R. § 262.34(a)(1)(ii) (renumbered as 40 C.F.R. § 262.17(a)(2)). By failing to comply with these requirements, Respondent failed to meet the storage conditions for generators and was required to have a license pursuant to Section 3005 of RCRA, 42 U.S.C. § 6925, and 310 C.M.R. 30.801.

34. Because Respondent did not have a TSD license for the Facility, Respondent violated Section 3005 of RCRA, 42 U.S.C. § 6925, and 310 C.M.R. 30.801.

Count 2: Failure to Determine Applicability and Comply with the Hazardous Waste Organic Air Emission Standards for Tanks (Subpart CC)

35. Paragraphs 1 through 34 are incorporated by reference as if fully set forth herein.

36. A generator that accumulates hazardous waste in tanks on-site for 90 days or less, without a permit, must comply with the requirements of Subpart CC of 40 C.F.R. Part 265 ("Subpart CC"). 40 C.F.R. § 262.34(a)(1)(ii) (renumbered as 40 C.F.R. § 262.17(a)(2)).

37. Pursuant to 40 C.F.R. § 265.1084(a), as referenced by 40 C.F.R. § 262.34(a)(1)(ii) (renumbered as 40 C.F.R. § 262.17(a)(2)), a facility must determine the average volatile organic ("VO") concentration at the point of waste origination for each hazardous waste placed in a waste management unit exempted under the provisions of § 264.1083(c)(1) from using air emissions controls with standards specified in § 264.1085 through § 264.1088, as applicable to the waste management unit. An initial determination of the average VO concentration of the waste stream shall be made before the first time any portion of the material in the hazardous waste stream is placed in a waste management unit exempted under the provisions of § 264.1083(c)(1) from using air emissions controls, and thereafter an initial determination of the average VO concentration of the waste stream shall be made for each averaging period that a hazardous waste is managed in the unit.

38. Pursuant to 40 C.F.R. § 265.1085(c)(4), as referenced by 40 C.F.R. § 262.34(a)(1)(ii) (renumbered as 40 C.F.R. § 262.17(a)(2)), when subject to Subpart CC, the facility must visually inspect the fixed roof and any closure devices to check for defects that could result in air pollutant emissions. In the event that a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of § 265.1085(k), and shall maintain a record of the inspection in accordance with the requirements of 40 C.F.R. § 265.1090(b).

39. At the time of the EPA Inspection, the Nitto Denko facility located at 125 Fortune Blvd. ("125 Facility") had two, outdoor, above-ground storage tanks (one not yet in use) and approximately nine, indoor, lift-station tanks for which applicability determinations along with records for such Subpart CC applicability determinations had not been completed.

40. Additionally, the Nitto Denko facility located at 155 Fortune Blvd. ("155

Facility") had a total of three, outdoor, above-ground storage tanks located in the tank farm and approximately eight, indoor, lift-station tanks for which applicability determinations and documentation for Subpart CC had not been completed, nor were annual Subpart CC inspections performed.

41. At the time of the Inspection, EPA Inspectors conducted LDAR monitoring and identified two leaks of hazardous waste emissions above the Subpart CC leak threshold (500 ppm). The first leak was from the conservation (pressure relief) vent on lift-station tank TS-3182 located at the 125 Facility in Room 4147, where the monitoring equipment detected a leak with a maximum organic vapor concentration of 9,700 ppm. The second leak was also from a conservation (pressure relief) vent at outdoor above-ground storage Tank T-4 located at the 155 Facility, where the monitoring equipment detected a leak with a maximum organic vapor concentration of 3,053 ppm.

42. By failing to make applicability determinations and inspect subject tanks at both Facilities and failing to document inspections and repairs of subject tanks, Respondent violated 40 C.F.R. § 265.1084(a), as referenced by 40 C.F.R. § 262.34(a)(1)(ii) (renumbered as 40 C.F.R. § 262.17(a)(2)) and 40 C.F.R. § 265.1085(c)(4), as referenced by 40 C.F.R. § 262.34(a)(1)(ii) (renumbered as 40 C.F.R. § 262.17(a)(2)). By failing to comply with these requirements, Respondent failed to meet the storage conditions for generators and was required to have a license pursuant to Section 3005 of RCRA, 42 U.S.C. § 6925, and 310 C.M.R. 30.801.

43. Because Respondent did not have a TSD license for the Facility, Respondent violated Section 3005 of RCRA, 42 U.S.C. § 6925, and 310 C.M.R. 30.801.

Count 3: Failure to Comply with Design and Installation Requirements for Hazardous Waste Tanks

44. Paragraphs 1 through 43 are incorporated by reference as if fully set forth herein.

45. Pursuant to 310 C.M.R. 30.340(4), a large quantity generator may accumulate hazardous waste in tanks at the site of generation for 90 days or less without a storage license from the Massachusetts Department of Environmental Protection ("MassDEP"), provided that it complies with 310 C.M.R. 30.343. Pursuant to 310 C.M.R. 30.692 and 30.693, as referenced by 310 C.M.R. 30.343(1), owners or operators of existing and new tank systems or components shall obtain and submit to the MassDEP, at the time information is submitted to MassDEP pursuant to 310 C.M.R. 30.099(6) and 310 C.M.R. 30.802, 310 C.M.R. 30.099(7) and (8), or 310 C.M.R. 30.850, a written assessment, reviewed and certified by an independent, qualified, registered professional engineer, in accordance with 310 C.M.R. 30.009, attesting that the tank system has sufficient structural integrity and is acceptable for the storing and treating of hazardous waste. The assessment for each tank must cover all elements referenced in 310 C.M.R. 30.692-30.693 for existing and new tank systems.

46. At the time of the EPA Inspection, Respondent did not have written tank assessments available on-site for any of the lift-station tanks (approximately seventeen in total) at the Facilities nor for Tank T-504, Tank T-5018, and Tank T-5017 (which was installed but not yet in service).

47. By failing to have written tank assessments for numerous hazardous waste storage tanks at the Facilities, Respondent violated 310 C.M.R. 30.692 and 30.693, as referenced by 310 C.M.R. 30.343(1). By failing to comply with these requirements, Respondent failed to meet the storage conditions for generators and was required to have a license pursuant to Section 3005 of RCRA, 42 U.S.C. § 6925, and 310 C.M.R. 30.801(1).

48. Because Respondent did not have a TSD license for the Facility, Respondent

violated Section 3005 of RCRA, 42 U.S.C. § 6925, and 310 C.M.R. 30.801.

Count 4: Failure to Conduct Daily Inspection of Hazardous Waste Tank Equipment and Secondary Containment

49. Paragraphs 1 through 48 are incorporated by reference as if fully set forth herein.

50. Pursuant to 310 C.M.R. 30.340(4), a large quantity generator may accumulate hazardous waste in tanks at the site of generation for 90 days or less without a storage license from the MassDEP provided that it complies with 310 C.M.R. 30.343. Pursuant to 310 C.M.R. 30.696, as referenced by 30.343(1), an owner or operator must daily inspect and document inspections of hazardous waste tanks as well as their overfill controls, the tank construction material along with immediate area, and the secondary containment system to detect erosion or signs of a release of hazardous waste.

51. At the time of the EPA Inspection, Respondent did not have any daily inspection records dated within the last three years for any of the hazardous waste, outdoor, above-ground, storage tanks nor the indoor lift-station tanks located at both Facilities.

52. Because Respondent did not conduct daily tank inspections for the outdoor, hazardous waste tanks or indoor, lift-station tanks for the last three years, Respondent violated 310 C.M.R. 30.696, as referenced by 310 C.M.R. 30.343(1). By failing to comply with these requirements, Respondent failed to meet the storage conditions for generators and was required to have a license pursuant to Section 3005 of RCRA, 42 U.S.C. § 6925, and 310 C.M.R. 30.801(1).

53. Because Respondent did not have a TSD license for the Facility, Respondent violated Section 3005 of RCRA, 42 U.S.C. § 6925, and 310 C.M.R. 30.801.

Count 5: Failure to Conduct Weekly Inspections of Hazardous Waste Container Storage Areas

54. Paragraphs 1 through 53 are incorporated by reference as if fully set forth herein.

55. Pursuant to 310 C.M.R. 30.340(4), a large quantity generator may accumulate hazardous waste in containers at the site of generation for 90 days or less without a storage license from the MassDEP provided that the waste placed in containers is managed in accordance with 310 C.M.R. 30.342. Pursuant to 310 C.M.R. 30.342(1)(d), which incorporates by reference 310 C.M.R. 30.686, at least weekly, the owner or operator shall inspect areas where containers are stored, looking for leaking and for deterioration, caused by corrosion or other factors, of containers and the containment system.

56. At the time of the EPA Inspection, upon reviewing the weekly inspection logs for hazardous waste container storage areas, inspectors found that weekly inspection records were missing for the weeks of December 19, 2022, March 27, 2023, and April 17, 2023, at the Hazardous Waste Trailer central accumulation area ("CAA") located at the 155 Facility. Additionally, weekly inspection logs were signed but not completed on September 28, October 5, October 12, October 19, and October 26, 2022, for the same Hazardous Waste Trailer CAA.

57. Because Respondent had several missing and incomplete weekly inspection records for the Hazardous Waste Trailer CAA located at the 155 Facility, Respondent violated 310 C.M.R. 30.686, as referenced by 310 C.M.R. 30.342. By failing to comply with this requirement, Respondent failed to meet the storage conditions for generators and was required to have a license pursuant to Section 3005 of RCRA, 42 U.S.C. § 6925, and 310 C.M.R. 30.801(1).

58. Because Respondent did not have a TSD license for the Facility, Respondent violated Section 3005 of RCRA, 42 U.S.C. § 6925, and 310 C.M.R. 30.801.

Count 6: Failure to Label Hazardous Waste Tanks and Storage Areas

59. Paragraphs 1 through 58 are incorporated by reference as if fully set forth herein.

60. Pursuant to 310 C.M.R. 30.340(4)(a), a large quantity generator may accumulate hazardous waste in tanks at the site of generation for 90 days or less without a storage license from the MassDEP provided that the waste is managed in accordance with 310 C.M.R. 30.341. Pursuant to 310 C.M.R. 30.341(2)(a)-(c) and 310 C.M.R. 30.341(4), a generator must mark and label each tank of hazardous waste with the words "Hazardous Waste", the hazardous waste identified in words, and the type of hazard(s) associated with the waste(s) indicated in words. Marks and labels shall be made on the side of each tank. Additionally, all areas where wastes are accumulated shall have posted at all times a sign with the words "HAZARDOUS WASTE" in capital letters at least one inch high.

61. At the time of the EPA Inspection, the following hazardous waste tank and accumulation area signage and labeling issues were observed:

a. The tank farm "vault" located at the 155 Facility had no visible hazardous waste signage on the exterior of the hazardous waste tanks or the storage area (on the fence or perimeter);

b. The tank farm located at the 125 Facility had no visible hazardous waste signage for the storage area (on the fence or perimeter);

c. Most lift-station tanks observed by the inspection team located at the 125 Facility did not have hazardous waste signage or labels;

d. Lift-station TS-30 located at the 155 Facility did not have hazardous waste signage or labeling.

62. Accordingly, Respondent failed to label the hazardous waste tanks listed in

Paragraph 61 above, with the words "Hazardous Waste," the hazardous waste identified in words, and the type of hazard(s) associated with the waste(s) indicated in words, and failed to label the accumulation areas with the words "HAZARDOUS WASTE," as required by 310 C.M.R. 30.341(2) and 310 C.M.R. 30.341(4). By failing to comply with these requirements, Respondent failed to meet the storage conditions for generators and was required to have a license pursuant to Section 3005 of RCRA, 42 U.S.C. § 6925, and 310 C.M.R. 30.801(1).

63. Because Respondent did not have a TSD license for the Facility, Respondent violated Section 3005 of RCRA, 42 U.S.C. § 6925, and 310 C.M.R. 30.801.

Count 7: Failure to Amend the Hazardous Waste Contingency Plan

64. Paragraphs 1 through 63 are incorporated by reference as if fully set forth herein.

65. Pursuant to 310 C.M.R. 30.340(4)(a), a large quantity generator may accumulate hazardous waste in tanks at the site of generation for 90 days or less without a storage license from the MassDEP provided that the waste is managed in accordance with 310 C.M.R. 30.341. Pursuant to 30.341(1)(d) which incorporates by reference 310 C.M.R. 30.523, a facility's contingency plan shall be reviewed, and immediately amended, if necessary, whenever: (3) the list of emergency coordinators changes; (5) there is any change in the operation or maintenance of the facility.

66. At the time of the EPA Inspection, Respondent's contingency plan did not include information for the current emergency contacts, nor did it include hazardous waste storage locations or emergency response equipment locations. Additionally, the plan for the 155 Facility references the other Nitto Denko facility by stating that "Avecia located at the adjacent 125 Fortune Blvd. is a small quantity generator (SQG) of hazardous waste and waste oil and does not fall under this plan." However, at the time of the inspection, the 125 Facility was a

large quantity generator (LQG) of hazardous waste. Accordingly, Respondent failed to amend the contingency plan to reflect current emergency contacts and accurate operating and hazardous waste storage conditions for both the 125 Facility and the 155 Facility, and was, therefore, in violation of 310 C.M.R. 30.523, as referenced by 310 C.M.R. 30.341. By failing to comply with this requirement, Respondent failed to meet the storage conditions for generators and was required to have a license pursuant to Section 3005 of RCRA, 42 U.S.C. § 6925, and 310 C.M.R. 30.801(1). Because Respondent did not have a TSD license for the Facility, Respondent violated Section 3005 of RCRA, 42 U.S.C. § 6925, and 310 C.M.R. 30.801.

Count 8: Failure to Submit Copies of Contingency Plan to Local Authorities and First Responders

67. Paragraphs 1 through 66 are incorporated by reference as if fully set forth herein.

68. Pursuant to 310 C.M.R. 30.340(4)(a), a large quantity generator may accumulate hazardous waste in tanks at the site of generation for 90 days or less without a storage license from the MassDEP provided that the waste is managed in accordance with 310 C.M.R. 30.341. Pursuant to 310 C.M.R. 30.341(1)(c), which incorporates by reference 310 C.M.R. 30.522, a generator is required to provide a copy of its contingency plan (for coordination and response to hazardous waste releases, fires, or explosions), and all revisions to the plan, to all local police departments, fire departments, hospitals, local boards of health and State and local emergency response teams that may be called upon to provide emergency services.

69. At the time of the EPA Inspection, Respondent had not provided copies of the Facility's contingency plan dated February 15, 2021, to local fire departments, hospitals, and State or local emergency response teams. Email correspondence provided during the inspection demonstrated that the contingency plan was last submitted to local agencies in April 2015 even

though significant operational and personnel changes had taken place post-2015.

70. Accordingly, Respondent failed to provide a copy of the Facility's contingency plan to required local authorities and entities, in violation of 310 C.M.R. 30.522, as referenced by 310 C.M.R. 30.341(1)(c). By failing to comply with this requirement, Respondent was in violation of the storage conditions for generators and was required to have a license pursuant to Section 3005 of RCRA, 42 U.S.C. § 6925, and 310 C.M.R. 30.801(1).

71. Because Respondent did not have a TSD license for the Facility, Respondent violated Section 3005 of RCRA, 42 U.S.C. § 6925, and 310 C.M.R. 30.801.

IV. GENERAL TERMS

72. The terms of this CAFO shall apply to and be binding on Respondent, its successors, and its assigns.

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

i. Admits that EPA has jurisdiction over the subject matter alleged in this CAFO;

ii. Neither admits nor denies the specific factual allegations contained in Section III of this CAFO;

iii. Consents to the assessment of a civil penalty as stated below;

iv. Consents to the issuance of any specified compliance or corrective action order;

v. Consents to the conditions specified in this CAFO;

vi. Waives its right to request a hearing, any right to contest the allegations in this CAFO and its right to appeal this CAFO.

74. Respondent admits that the CAFO states claims upon which relief can be granted against Respondent. Respondent waives any right to a judicial or administrative hearing or

appeal regarding this CAFO, and to otherwise contest the allegations of this CAFO. By signing this consent agreement, respondent waives any rights or defenses that 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 the consent agreement. Respondent consents to personal jurisdiction in any action to enforce this CAFO in the United States District Court for the District of Massachusetts, and waives any rights in law or equity to challenge EPA's authority 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.

75. Respondent consents to the assessment of the civil penalty set out in Section VI below. Respondent also consents to the issuance of any compliance provisions and any conditions specified in this CAFO.

V. COMPLIANCE CERTIFICATION AND COMPLIANCE ORDER

76. Respondent certifies that within 30 days of the effective date of this CAFO, both Nitto Denko Facilities will be in compliance with RCRA and the federal and state hazardous waste regulations promulgated thereunder, including but not limited to the Massachusetts Hazardous Waste Regulations cited in Paragraphs 12 through 71 above.

77. Respondent further certifies that within 30 days of the effective date of this CAFO, it will have completed the following RCRA compliance actions at the Facilities or, alternatively, that it has applied for a permit for the Facilities pursuant to Section 3005 of RCRA, 42 U.S.C. § 6925, and 310 C.M.R. 30.801(1).

i. Respondent has determined Subpart BB applicability, marked or tagged subject equipment that contains or contacts hazardous waste with an organic content of

at least ten percent by weight, is implementing a LDAR program to monitor equipment within both Facilities and recorded all required information in the facility operating record, pursuant to 40 C.F.R. § 265.1050(d), 40 C.F.R. § 265.1052(a)(1) and (2), 40 C.F.R. § 265.1057(a), and 40 C.F.R. § 265.1064, as referenced by 40 C.F.R. § 262.34(a)(1)(ii) (renumbered as 40 C.F.R. § 262.17(a)(2)).

ii. Respondent has determined Subpart CC applicability of all hazardous waste tanks and containers at both Facilities that store hazardous waste that is greater than or equal to 500 ppm volatile organic at the point of waste origination, and is implementing an inspection, monitoring (if applicable), and repair program, pursuant to 40 C.F.R. § 265.1084(a) and 40 C.F.R. § 265.1085(c)(4), as referenced by 40 C.F.R. § 262.34(a)(1)(ii) (renumbered as 40 C.F.R. § 262.17(a)(2)).

iii. Respondent has a written tank assessment available on-site for each existing and new, above-ground, hazardous waste storage tank and all hazardous waste lift-station tanks at the Facilities, in accordance with 310 C.M.R. 30.692 and 30.693, as referenced by 310 C.M.R. 30.343(1), and has submitted to EPA copies of the written tank assessments for the 17 lift-station tanks and for Tank T-504, Tank T-5018, and Tank T-5017 referenced in paragraph 46 above.

iv. Respondent is inspecting all hazardous waste tanks, including lift-station tanks, at the Facilities on a daily basis and documenting such inspections, in accordance with 310 C.M.R. 30.696, as referenced by 310 C.M.R. 30.343(1);

v. Respondent is inspecting all hazardous waste containers and documenting

weekly inspections, in accordance with 310 C.M.R. 30.686, as referenced by 310 C.M.R. 30.342(1).

vi. Respondent is properly labeling all hazardous waste tanks at the Facilities, including all lift-station tanks and all hazardous waste storage areas, with the words "Hazardous Waste," identifying the hazardous waste(s) (e.g., acetone, toluene), and indicating the type of hazard(s) associated with the waste(s) (e.g., ignitable, toxic, dangerous when wet), in accordance with 310 C.M.R. 30.341(2)(a)-(c) and 310 C.M.R. 30.341(4).

vii. Respondent has revised the Facilities' contingency plan to include all current emergency coordinator and current operating and hazardous waste storage units for both Facilities, in accordance with 310 C.M.R. 30.523, as referenced by 310 C.M.R. 30.341(1)(d);

viii. Respondent has provided the Facilities' contingency plan to all required local authorities and entities, in accordance with and 310 C.M.R. 30.522, as referenced by 310 C.M.R. 30.341(1)(c);

78. Additionally, within 30 days of the effective date of this CAFO, Respondent shall provide all required hazardous waste training for personnel managing hazardous waste at the Facilities, in accordance with 310 C.M.R. 30.341(1)(a), which incorporates by reference 310 C.M.R. 30.516.

VI. CIVIL PENALTY

79. Respondent agrees to pay a penalty of $858,889 (herein "Assessed Penalty") within 30 days of the effective date of this CAFO. The CAFO shall become effective on the date it is filed with the Regional Hearing Clerk.

80. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on EPA's "How to Make a Payment" website: https://www.epa.gov/financial/makepayment. For additional instructions see: https://www.epa.gov/financial/additional-instructions-making-payments-epa.

81. When making a payment, Respondent shall:

i. Identify every payment with the Respondent's name (i.e., "Nitto Denko Avecia, Inc.") and the docket number of this Agreement, RCRA-01-2026-0014.

ii. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve proof of such payment to the following persons:

Wanda Santiago, Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 1
Via electronic mail to:
r1_hearing_clerk_filings@epa.gov

and

Andrea Simpson, Senior Enforcement Counsel
U.S. Environmental Protection Agency, Region 1
Via electronic mail to:
Simpson.Andrea@epa.gov

and

U.S. Environmental Protection Agency
Cincinnati Finance Center
Via electronic mail to:
CINWD_AcctsReceivable@epa.gov

82. "Proof of payment" means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or 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 appropriate docket number and Respondent's name.

83. Interest, Charges, and Penalties on Late Payments. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay the full amount of the Assessed Penalty per this Agreement, EPA is authorized to recover, in addition to the amount of the unpaid Assessed Penalty, the following amounts.

i. Interest. Interest begins to accrue from the Filing Date. If the Assessed Penalty is paid in full within 30 days, interest accrued is waived. If the Assessed Penalty is not paid in full within 30 days, interest will continue to accrue until any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. To protect the interests of the United States, the rate of interest is set at the IRS standard underpayment rate; any lower rate would fail to provide the Respondent adequate incentive for timely payment.

ii. Handling Charges. Respondent will be assessed monthly a charge to cover EPA's costs of processing and handling overdue debts. If Respondent fails to pay the Assessed Penalty in accordance with this Agreement, EPA will assess a charge to cover the costs of handling any unpaid amounts for the first 30-day period after the Filing Date. Additional handling charges will be assessed every 30 days, or any portion thereof, until the unpaid portion of the Assessed Penalty as well as any accrued interest, penalties, and other charges are paid in full.

iii. Late Payment Penalty. A late payment penalty of 6 percent per annum will be assessed monthly on all debts, including any unpaid portion of the Assessed Penalty, interest, penalties, and other charges that remain delinquent more than

90 days. Any such amounts will accrue from the Filing Date.

84. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Agreement, EPA may take additional actions. Such actions EPA may take include, but are not limited to, the following.

i. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. § 13.13 and 13.14.

ii. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.

iii. Suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, per 40 C.F.R. § 13.17.

iv. Refer this matter to the United States Department of Justice for litigation and collection, per 40 C.F.R. § 13.33.

85. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.

86. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Agreement shall not be deductible for purposes of federal taxes.

87. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service ("IRS") annually, a completed IRS Form 1098-F ("Fines, Penalties, and Other Amounts") with respect to any court order or settlement agreement (including administrative settlements), that require a payor to pay an aggregate amount that 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." EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number ("TIN"), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. In order to provide EPA with sufficient information to enable it to fulfill these obligations, EPA herein requires, and Respondent herein agrees, that:

i. Respondent shall complete an IRS Form W-9 ("Request for Taxpayer Identification Number and Certification"), which is available at https://www.irs.gov/pub/irs-pdf/fw9.pdf;

ii. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent's correct TIN or that Respondent has applied and is waiting for issuance of a TIN;

iii. Respondent shall email its completed Form W-9 to EPA's Cincinnati Finance Center at chalifoux.jessica@epa.gov, within 30 days after the Final Order ratifying this Agreement is filed, and EPA recommends encrypting IRS Form W-9 email correspondence; and

iv. In the event that Respondent has certified in its completed IRS Form W-9 that it does not yet have a TIN but has applied for a TIN, Respondent shall provide EPA's Cincinnati Finance Center, via the email address identified in the preceding sub-paragraph, with Respondent's TIN within five (5) days of Respondent's receipt of a TIN issued by the IRS.

VII. EFFECT OF SETTLEMENT

88. This CAFO constitutes a settlement by EPA of all claims for federal civil penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g), for the alleged violations set out in Section III.C of this CAFO.

89. Nothing in this CAFO shall be construed to limit the authority of EPA or the United States to undertake any action against Respondent for criminal activity, or to respond to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment. EPA reserves all rights and remedies available to it to enforce the provisions of this CAFO, RCRA and its implementing regulations and permits, and any other federal, state, or local law or regulation.

90. This CAFO shall not relieve Respondent of its obligations to comply with all applicable provisions of federal or state law, and this CAFO shall not be construed to be a ruling or determination regarding any issue related to any federal, state, or local permit. Except as provided in Paragraph 88 above, compliance with this CAFO shall not be a defense to any action subsequently commenced pursuant to environmental laws and regulations administered by EPA.

91. Each Party shall bear its own costs, disbursements, and attorneys' fees in connection with this enforcement action, and each Party specifically waives any right to recover

such costs, disbursements, or fees from the other Party pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504, or other applicable law.

92. The Parties' undersigned representatives certify that they are fully authorized by their respective Party to enter into the terms and conditions of this CAFO and to execute and legally bind their Party to it.

93. Complainant and Respondent, by entering into this Consent Agreement, each give their respective consent to accept digital signatures hereupon. Respondent further consents to accept electronic service of the fully executed CAFO, by electronic mail, to Respondent's counsel at trisha.smith@nitto.com.

94. Respondent understands that this e-mail address may be made public when the CAFO and Certificate of Service are filed and uploaded to a searchable database. Complainant has provided Respondent with a copy of the EPA Region 1 Regional Judicial Officer's Authorization of EPA Region 1 Part 22 Electronic Filing System for Electronic Filing and Service of Documents Standing Order, dated June 19, 2020. Electronic signatures shall comply with, and be maintained in accordance with, that Order.

95. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of the Parties and approval of the Regional Judicial Officer.

96. In accordance with 40 C.F.R. § 22.31(b), the effective date of this CAFO is the date on which this CAFO is filed, either in person or electronically via email, with the Regional Hearing Clerk.

FOR RESPONDENT:

Tammy Cooper
Tammy Cooper (Jan 8, 2026 11:24:43 EST)

Date: Jan 8, 2026

Tammy Cooper, President
Nitto Denko Avecia, Inc.

FOR COMPLAINANT:

JAMES CHOW
Digitally signed by JAMES CHOW
Date: 2026.02.03 15:21:48 -05'00'

Dated via electronic signature

James Chow, Director
Enforcement and Compliance Assurance Division
U.S. EPA, Region 1

FINAL ORDER

Pursuant to 40 C.F.R. § 22.18(b) and (c) of the Consolidated Rules, the foregoing Consent Agreement resolving this matter is incorporated by reference into this Final Order and is hereby ratified. Respondent Nitto Denko Avecia, Inc., is ordered comply with the terms of this CAFO and to pay the civil penalty amount specified in the manner indicated therein. The terms of the Consent Agreement shall become effective on the date that the CAFO is filed with the Regional Hearing Clerk.

MICHAEL KNAPP

Digitally signed by MICHAEL KNAPP
Date: 2026.02.05 08:31:11 -05'00'

Dated via electronic signature

Michael J. Knapp
Regional Judicial Officer
U.S. EPA, Region 1

Nitto Denko Avecia_CAFO_Rev.1.07.2026_for signature

Final Audit Report 2026-01-08

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