

**FILED**

**Sep 26, 2024**

**6:15 am**

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

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4**

<b>IN THE MATTER OF:</b>	)	
	)	
<b>CORMETECH, INC.,</b>	)	<b>CONSENT AGREEMENT AND</b>
<b>CHARLOTTE NORTH CAROLINA,</b>	)	<b>FINAL ORDER</b>
	)	
	)	<b>DOCKET NO CWA-04-2024-1003(b)</b>
<b>RESPONDENT.</b>	)	
	)	

**CONSENT AGREEMENT**

**I. NATURE OF ACTION**

1. This is an administrative penalty assessment proceeding brought under Section 309{g}{2}{B) of the Clean Water Act {CWA}, 33 U.S.C. § 1319{g}{2}{B), 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 adjudication of any issues of law or fact herein.

**II. PARTIES**

4. Complainant is the Director of the Enforcement and Compliance Assurance Division of the United States Environmental Protection Agency, Region 4 {"Director"}, 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 309{g}{2}{B) of the CWA.

5. The Respondent is Cormetech, Inc. formerly known as STEAG Energy Services LLC, a corporation duly organized and existing under the laws of the State of Delaware and a "person" within the meaning of Section 502{5) of the CWA, 33 U.S.C. § 1362{5), and is thus subject to its requirements.

6. This proceeding relates to a facility located at 304 Linwood Road in Kings Mountain, Cleveland County, North Carolina {Facility) that regenerates used selective catalytic reduction catalyst modules from fossil-fueled power generation plants. At all times relevant to this action, Respondent and its predecessors in interest have owned and operated the Facility.

7. Prior to January 1, 2016, STEAG Energy Services LLC owned the Facility. On January 1, 2016, STEAG Energy Services was acquired by a holding company, STEAG-SCR Tech, Inc., that merged its wholly owned subsidiaries, STEAG Energy Services LLC and SCR-Tech LLC. As a result of that

transaction, STEAG-SCR Tech became the owner and operator of the Facility. In November 2017, STEAG-SCR Tech acquired {and, in March 2018, merged into) Cormetech, Inc. The catalyst regeneration operations at a similar facility located at 11707 Steele Creek Road, Charlotte, North Carolina {Steele Creek Facility) {formerly called SCR-Tech LLC {a/k/a CoaLogix Holdings, Inc.) were also shifted to the Facility around this time. Pursuant to these 2016 through 2018 mergers and acquisitions, Cormetech, Inc. assumed the liabilities of STEAG Energy Services, LLC and SCR-Tech LLC for their earlier operations of the Facility.

8. Respondent is an "industrial user," as defined at 40 C.F.R. § 403.3(j) because Respondent discharges from the Facility "pollutants" subject to "pretreatment standards" and "prohibitions" within the meaning of Sections 307(b), (c) and (d) of the CWA, 33 U.S.C. § 1317(b), (c) and (d). Such pollutants are discharged from the Facility into the Pilot Creek Wastewater Treatment Plant, located at 200 Potts Creek Road in Kings Mountain, North Carolina 28086, and its conveyances, which together comprise the Publicly Owned Treatment Works (POTW) and "municipality" within the meaning of Sections 212(2) and 502(4) of the CWA, 33 U.S.C. §§ 1292(2) and 1362(4). The POTW discharges its effluent into Buffalo Creek which is a Water of the United States.

### **III. GOVERNING LAW**

9. Section 307(d) of the CWA, 33 U.S.C. § 1317(d), prohibits the operation of any source in violation of any effluent standard, prohibition, or pretreatment standard promulgated under Section 307 of the CWA, 33 U.S.C. § 1317.

10. Pursuant to Section 307 of the CWA, 33 U.S.C. § 1317, the EPA has established standards that govern discharges into POTWs that discharge to navigable waters. The General Pretreatment Regulations, found at 40 C.F.R. Part 403, are designed to ensure that each POTW can comply with its National Pollutant Discharge Elimination System (NPDES) permit.

11. All discharges from industrial users to a POTW are subject to the pretreatment standards and requirements in 40 C.F.R. Part 403. Noncompliance with any pretreatment standard, prohibition or effluent standard is a violation of the CWA. 33 U.S.C. § 1317.

12. The EPA has promulgated pretreatment standards for specified categories of industrial users pursuant to Section 307(b) of the CWA. These categories of industrial users, or "categorical" industrial users, are subject to specific pretreatment standards and requirements set forth at 40 C.F.R. Parts 405-471, which are based on achievable pretreatment technologies.

13. Pursuant to 40 C.F.R. § 403.6(b), "new sources," as defined by 40 C.F.R. § 403.3(m), shall install and have in operating condition all pollution control equipment required to meet applicable pretreatment standards prior to initiating discharge to a POTW.

14. Pursuant to 40 C.F.R. §§ 403.12(b), (d), (e), (g), (l) & (o), an industrial user to which new source categorical pretreatment standards apply must self-report to the Control Authority and retain record of certain information of any discharge to the POTW, including information on its anticipated or actual pollutant contributions: at least 90 days prior to commencing discharge, 90 days after commencing discharge, and at least twice annually thereafter.

15. Pursuant to Section 402(b) of the CWA, 33 U.S.C. § 1342(b), a state may receive authorization from the EPA Administrator to implement a pretreatment program. The North Carolina Department of Environmental Quality (NCDEQ) is the state agency authorized to administer the Pretreatment Program in North Carolina pursuant to 33 U.S.C. § 1342(b), implementing regulations, and a Memorandum of Agreement with the EPA. Therefore, NCDEQ is an "Approval Authority" as defined by 40 C.F.R. § 403.3(c).

16. Pursuant to 40 C.F.R. §§ 403.8 and 403.9, the City of Kings Mountain, North Carolina (Kings Mountain) owns a POTW and has obtained authorization from the Approval Authority to develop and implement a local pretreatment program. Therefore, Kings Mountain is a "Control Authority," as defined by 40 C.F.R. § 403.3(f).

17. Pursuant to 40 C.F.R. § 403.5(c)(1), a Control Authority develops and updates specific local standards for the discharges from industrial users of its POTW according to its authorization requirements from the Approval Authority. These "local limits" are also pretreatment standards, as defined by 40 C.F.R. § 403.5(d) and Section 307(d) of the CWA, 33 U.S.C. § 1317(d).

18. In states authorized by the EPA to implement their own pretreatment programs, the EPA retains enforcement authority, pursuant to 33 U.S.C. §§ 1319(a)(3) and 1342(i).

19. Pursuant to 40 C.F.R. §§ 403.5(a)(1) and 403.5(b)(4), all industrial users of a POTW are prohibited from introducing any pollutants which cause "pass-through" of the POTW as defined by 40 C.F.R. § 403.3(p), or "interference" with the POTW as defined by 40 C.F.R. § 403.3(k).

20. Pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), and 40 C.F.R. § 22.38(b), the Complainant represents that the State of North Carolina was provided a prior opportunity to consult with the Complainant regarding this matter.

21. Pursuant to Section 309(g)(4)(A) of the CWA, 33 U.S.C. § 1319(g)(4)(A), and 40 C.F.R. § 22.45, Complainant will provide public notice of and reasonable opportunity to comment on the proposed issuance of this CAFO prior to issuance of the Final Order.

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

22. At all times relevant to this action, Kings Mountain has owned and operated the POTW receiving discharges from the industrial user and been an authorized Control Authority for the Respondent and its Facility.

23. The Facility began operating in April 2007. The Facility receives used materials from off-site, which are catalyst modules that client power plants employ to reduce their emissions of nitrogen oxides. The catalyst modules are composed of a titanium oxide-based ceramic structure that is surfaced with a customized catalytic layer containing vanadium as an active ingredient. Upon receipt, the catalyst modules are assessed for condition, and either disposed or subjected to a regeneration process recovering their catalytic function and allowing their reuse by clients. The Facility's regeneration process extracts the industrial wastes accumulated by the catalyst module during its

service, which are primarily metals-bearing wastes, and removes and replaces the used portion of the catalytic layer. The regeneration process results in a wastewater stream.

24. Based in part on a letter from EPA Headquarters to CoaLogix/SCR-Tech LLC dated April 20, 2012, concerning the classification of the Steele Creek Facility, Complainant has concluded that used catalyst modules received by the Facility from off-site industrial sources are "used material" as that term is used in 40 C.F.R. § 437.2(c), and the regeneration process performed by the Facility is "recovery," as defined by 40 C.F.R. § 437.2(y). Because the Facility receives "used material" from off-site and treats it so a portion may be reused, it is a centralized waste treatment facility, which is a categorical industrial user pursuant to 40 C.F.R. §§ 437.1(a) and 437.2(c), and the categorical pretreatment standards and requirements in 40 C.F.R. Part 437 apply to any process wastewaters the Facility discharges to the POTW.

25. The Facility qualifies as a "new source," as defined by 40 C.F.R. § 403.3(m), because the Facility qualified as a centralized waste treatment facility after the EPA published the proposed pretreatment standards for Part 437 on January 13, 1999.

26. Discharge of categorical wastewater to a POTW also qualifies the Facility as a "significant industrial user" or "SIU," as defined by 40 C.F.R. § 403.3(v), which requires an individual user permit from the Control Authority, pursuant to 40 C.F.R. § 403.8(f).

27. On May 1, 2007, the Control Authority issued the first of a series of SIU permits authorizing and conditioning the discharge of process wastewater from the Facility into the POTW. Each SIU permit has been based on permit applications submitted to the Control Authority by the Respondent and its predecessors in interest.

28. Since October 2009, all the SIU permit applications submitted to the Control Authority by Respondent and its immediate predecessor in interest self-identified the Facility as being subject to categorical pretreatment standards for metal finishers {40 C.F.R. Part 433}. That identification comported with the categorical pretreatment standards applied in the SIU permits issued by the Control Authority beginning on October 27, 2009.

29. On May 29, 2015, following EPA Headquarters' 2012 opinion that the Steele Creek Facility was subject to the 40 C.F.R. § 437.16 categorical standards, the Approval Authority, NCDEQ, responded to a request for categorical determination that the Steele Creek Facility was a metal finisher subject to categorical standards appearing at 40 C.F.R. § 433.17.

30. Consequently, all the SIU permits issued to the Facility by the Control Authority since October 27, 2009, have been incorrectly requiring compliance with the 40 C.F.R. Part 433 pretreatment standards for metal finishers instead of centralized waste treatment facilities.

31. The new source pretreatment standards for centralized waste treatment facilities in 40 C.F.R. § 437.16 that apply to the Facility include a greater number of regulated pollutants and associated pretreatment standards than 40 C.F.R. § 433.17. The Part 437 pollutants, which are associated with 21 technology-based pretreatment standards, include six parameters {tin, cobalt, vanadium, titanium, oil & grease, and antimony) that are not regulated under Part 433. Compliance

with those six parameters had not been monitored and reported pursuant to 40 C.F.R. § 403.12 requirements since the Facility began discharging to the POTW in 2007.

32. In approximately May 2007, the Respondent's predecessors in interest began using a single-step precipitation and sedimentation system to pretreat its process wastewater before discharging it to the POTW, and Respondent has continued to use such pretreatment system.

33. As stated in the Development Document for Effluent Limitations Guidelines and Standards for the Centralized Waste Treatment Industry {EPA 821-R-00-020, August 2000}, a single-step precipitation and sedimentation system is not as effective at removing metals and semi-metals {e.g., arsenic} as a two-step system. It is also not as effective as a two-step system with additional sand filtration, which is the best available technology economically achievable {BAT} that was the basis for the applicable centralized waste treatment facility pretreatment standards applicable to the Facility {40 C.F.R. § 437.16}. Also, a single-step system is not as effective at removing cyanide-complexed metals as alkaline chlorination pretreatment using a two-step process.

34. The Facility's effluent on July 6, 2016, July 13, 2016, September 28, 2016, March 8, 2017, June 14, 2017, and December 13, 2017, exceeded the daily maximum pretreatment standard for arsenic in the SIU permit {2.0 lbs/day}.

35. The Control Authority's NPDES Permit {NC0020737} effective between June 1, 2015, and January 31, 2020, contained a daily maximum limit of 184.2 µg/L, and monthly average limit of 152.2 µg/L, for arsenic in the POTW effluent.

36. The POTW exceeded its arsenic monthly average effluent limit in June 2017 and July 2017 and exceeded its daily maximum arsenic effluent limit in June 2017. About two months later, in September 2017, the POTW also exceeded its weekly average effluent limit for ammonia by 77 percent and its monthly average effluent limit for ammonia by 184 percent.

37. In May 2018, the POTW exceeded its daily maximum and monthly average arsenic limits by 9 percent and 25 percent, respectively, and was fined by NCDEQ. In August 2018, the Facility exceeded the daily maximum pretreatment standard for arsenic in the SIU permit. The following month, in September 2018, the POTW exceeded its monthly average ammonia limit by 38 percent and was again fined by NCDEQ.

38. The Control Authority noted that the POTW's biomass dropped precipitously on August 22, 2018, and it continued to decline into September 2018. The limit exceedances and the upset together indicate that discharges from the Facility caused and/or contributed to cumulative in-plant toxicities impacting biological treatment and elevating solids in the system.

39. In August, October, and November 2019, the POTW exceeded its daily maximum and monthly average effluent limits for multiple pollutants including arsenic and ammonia. Such exceedances indicate that discharges from the Facility caused and/or contributed to cumulative in-plant toxicities impacting biological treatment.

40. On October 22, 2019, the POTW reported to NCDEQ its suspected reasons for the exceedances of the arsenic limits in the NPDES Permit during August 2019. The POTW reported that the food-to-mass ratio in the treatment system since August 2019 had "decreased significantly," that midge flies "have become an issue" at the WWTP {blooms of these flies appear at WWTPs operating outside of steady state), and that "Cormetech was discharging arsenic higher than normal."

41. On December 20, 2019, the Control Authority and Respondent entered into a consent order for significant non-compliance by the Facility, as defined at 40 C.F.R. §(f)(2)(viii), including general exceedances of the arsenic pretreatment standards in the SIU permit between 2016 and 2017. The consent order did not cite Respondent for causing pass-through or interference.

42. On June 1, 2015, the Control Authority's NPDES Permit was renewed by NCDEQ. Daily maximum and monthly average effluent limits for thallium were added to the NPDES Permit due to high thallium concentrations being detected in the POTW effluent.

43. Throughout 2016, self-monitoring by the Facility and monitoring of other SIUs by the POTW confirmed the Facility as its primary source of thallium.

44. In March, April, May, and June 2016, the POTW exceeded the NPDES Permit daily maximum and monthly average effluent limits for thallium.

45. On July 18, 2016, the Control Authority entered a special {agreed} order on consent with NCDEQ. In the order, the POTW stipulated it was "unable to consistently comply with effluent thallium limitations as set forth in NPDES Permit NC0020737 due to the indirect discharge of thallium by a permitted significant industrial user [Respondent]." The Control Authority agreed to comply with its NPDES Permit condition requiring implementation of its authorized pretreatment program, and to control Respondent's thallium discharge by August 31, 2018. The order also temporarily elevated the POTW's NPDES Permit limits for thallium discharged into Buffalo Creek from 1.43 µg/L {daily maximum and monthly average limits) to 60.1 µg/L {monthly average limit only). NCDEQ subsequently extended the agreed order's deadline to May 31, 2020.

46. On November 22, 2016, the Control Authority modified the Facility's SIU permit, establishing a daily maximum of 0.315 mg/L {i.e., 315 µg/L) for thallium in lieu of the prior "monitor only" requirement. The self-monitoring frequency continued to be monthly.

47. In 2017, self-monitoring by the Facility detected exceedances of the thallium daily maximum pretreatment standard in the SIU permit on January 25, February 1, and February 8.

48. In August, September, and October 2017, the POTW exceeded the NPDES Permit daily maximum and monthly average effluent limits for thallium to Buffalo Creek.

49. Between 2015 and 2018, the Facility changed treatment technologies to reduce thallium concentrations. In 2019 and 2020 the Facility accepted reductions in its maximum permitted discharge volume to further reduce the quantity of thallium and other pollutants discharged. In addition, Respondent met with both the Control Authority and NCDEQ, resulting in an upward modification of the thallium effluent limitation allowed in the POTW effluent by the Control Authority's NPDES permit.

50. On December 20, 2019, the Control Authority and Respondent entered a consent order for significant non-compliance by the Facility, as defined at 40 C.F.R. § 403.8{f}{2}{viii). The consent order temporarily elevated the daily maximum pretreatment standard for thallium in the SIU permit to 0.500 mg/L {i.e., 500 µg/L) until June 6, 2020, which effectively precluded further non-compliance concerning thallium. The consent order did not cite Respondent for its exceedances of the prior thallium pretreatment standard or for causing pass-through or interference.

51. Pursuant to 40 C.F.R. § 403.12{g}{2), which is also incorporated in the Facility's SIU permit as condition II.2.b., "the permittee shall notify the Control Authority within 24 hours of becoming aware of the violation." Neither 40 C.F.R. § 403.12{g}{2) nor condition II.2.b of the Facility's SIU permit expressly requires notification to be in writing. The industrial user must also repeat the sampling and analysis and submit the results of the repeat analysis to the Control Authority within 30 days after becoming aware of the violation.

52. The Respondent incurred SIU permit violations of which there is no record of notifying the Control Authority within 24 hours of becoming aware of the violation (February 18, February 24, and March 3, 2017; and February 17, 2018), and no record of any identification and enforcement by the Control Authority.

53. The Respondent incurred pretreatment standard violations that received repeat sampling and analyses, but the results of those analyses were not submitted to the Control Authority within 30 days after becoming aware of the violation so the Control Authority could promptly act on the information. The late submissions to the Control Authority were not identified and enforced by the Control Authority; their due dates were March 18 and March 25, 2017; and January 20, March 18, and September 15, 2018.

## **V. VIOLATIONS**

54. Based on the aforementioned findings of fact and additional information obtained pursuant to Section 308 of the CWA, the EPA has identified the following violations of pretreatment standards and requirements, as defined by 40 C.F.R. §§ 403.3{l) and 403.3{t):

- A. Industrial user interfering with a POTW or causing pass-through. Pursuant to the National General Prohibition in 40 C.F.R. § 403.5{a){1), no industrial user shall introduce pollutants into a POTW which cause interference with a POTW, or which exit the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES Permit.

Respondent has been contributing pollutants to the POTW and these pollutants have accumulated and caused interference with normal operations, and passed through municipal treatment, resulting in chronic exceedances of the POTW's NPDES Permit limitations for discharge into Buffalo Creek, which is a Water of the United States.

- B. New source failure to install and operate pretreatment equipment prior to discharge. Pursuant to 40 C.F.R. § 403.6{b), discharge from the Respondent to a POTW is subject to

both the federal categorical pretreatment standards in 40 C.F.R. § 437.16 and local pretreatment standards. Respondent is a new source, as defined in 40 C.F.R. § 403.3(m), because construction of the Facility commenced after the publication of the proposed pretreatment standard applicable to the Facility Respondent was thus required to install and have in operating condition all pollution control equipment necessary to meet applicable pretreatment standards, including those in 40 C.F.R. § 437.16, prior to beginning discharge to the POTW.

Respondent did not install all such necessary pollution control equipment prior to beginning discharge of regulated waste streams to the POTW and, in continuing violation of 40 C.F.R. § 403.6(b), has not yet installed such equipment.

- C. Failure to submit a baseline monitoring report. At least 90 days prior to commencement of discharge, a new source is required to submit to the Control Authority a report which contains the information listed in 40 C.F.R. § 403.12(b)(1)-(5), as well as information on the method of pretreatment the source intends to use to meet applicable pretreatment standards and to maintain record of the report, per 40 C.F.R. §§ 403.12(d), 403.12(g), 403.12(l) and 403.12(o).

Respondent did not submit the required baseline report to the Control Authority for the 40 C.F.R. § 437.16 standards, nor did Respondent maintain the required records demonstrating its compliance with the baseline reporting requirement.

- D. Failure to submit a 90-day report. Within 90 days after commencing a discharge to a POTW, a new source is required to report to the Control Authority and maintain record of the self-monitoring information on its compliance with standards, per 40 C.F.R. §§ 403.12(d), 403.12(g), 403.12(l) and 403.12(o).

Ninety days after commencing a categorical discharge to the POTW, Respondent did not submit a report to the Control Authority of its initial compliance with the pretreatment standards in 40 C.F.R. § 437.16. Respondent also did not maintain the required record demonstrating its initial compliance with these pretreatment standards.

- E. Failure to submit periodic reports on continued compliance with categorical standards. Pursuant to 40 C.F.R. §§ 403.12(e), 403.12(g), 403.12(l) and 403.12(o), any industrial user subject to categorical pretreatment standards must submit to the Control Authority, and maintain records of, additional periodic compliance reports at least twice a year on compliance with the categorical standards and other information.

After commencing categorical discharge, and continuing to the present, Respondent has not submitted to the Control Authority, or maintained record of, self-monitoring reports demonstrating its compliance with 40 C.F.R. § 437.16 pretreatment standards.

- F. Failure to notify a Control Authority of a violation within 24-hours and report resampling results within 30 days. Pursuant to 40 C.F.R. § 403.12(g)(2) and pretreatment requirement II.2.b of the SIU permit, if sampling performed by an industrial user



indicates a violation, the user must notify the Control Authority within 24 hours of becoming aware of the violation. The industrial user must also repeat the sampling and analysis and submit the results of the repeat analysis to the Control Authority within 30 days after becoming aware of the violation.

On multiple occasions during 2017 and 2018, Respondent took greater than 24-hours to report violations to the Control Authority and took greater than 30 days to submit resampling results.

55. Therefore, Respondent has violated Sections 301(a) and 307 of the CWA, 33 U.S.C. § 1311(a) and 1317, by failing to comply with 40 C.F.R. Parts 403 and 437.

## **VI. STIPULATIONS**

56. The Complainant and the Respondent have conferred for settlement pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument or the adjudication of any issue in this matter, and in accordance with 40 C.F.R. § 22.13(b), this CAFO will simultaneously commence and conclude this matter.

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

- A. Admits that the EPA has jurisdiction over the subject matter alleged in this CAFO;
- B. Neither admits nor denies the factual allegations set forth in Section IV {Findings of Facts) of this CAFO;
- C. Consents to the assessment of a civil penalty as stated below;
- D. Consents to the conditions specified in this CAFO;
- E. Neither admits nor denies the allegations set forth in Section V {Alleged Violations) of this CAFO but waives any right to contest those allegations; and
- F. Waives its rights to appeal the Final Order accompanying this CAFO.

58. For the purpose of this proceeding only and not for use by EPA in any other proceeding or by any Third Party, Respondent:

- A. Agrees that this CAFO states a claim upon which relief may be granted against Respondent;
- B. Acknowledges that this CAFO constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement actions;
- C. Waives any 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;

- D. 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 the EPA officials where the purpose of such discussion, memorandum, or communication is to persuade such official to accept and issue this CAFO; and
- E. Agrees to comply with the terms of this CAFO.

59. 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.

60. The parties acknowledge and agree that this CAFO is subject to the requirements of 40 C.F.R. § 22.45(c)(4), which provides a right to petition to set aside a proposed CAFO based on comments received during the public comment period.

## VII. TERMS OF PAYMENT

61. Pursuant to Section 309(g)(2)(B) and (3) of the CWA, 33 U.S.C. § 1319(g)(2)(B) and (3), and 40 C.F.R. Part 19, and considering the nature of the violations and other relevant factors, the EPA has determined that **THREE HUNDRED TWENTY-TWO THOUSAND FOUR HUNDRED TWENTY-FOUR DOLLARS (\$322,424)** is an appropriate civil penalty to settle this action.

62. The Respondent shall submit payment of the penalty specified in the preceding paragraph within 30 days of the Effective Date of this CAFO via cashier's check, certified check, by electronic funds transfer {EFT}, or by Automated Clearing House {ACH} {also known as REX or remittance express). If paying by check, the check shall be payable to: Treasurer, United States of America, and the Facility name and docket number for this matter shall be referenced on the face of the check. If Respondent sends payment by standard U.S. Postal Service delivery, the payment shall be addressed to:

U.S. Environmental Protection Agency  
Cincinnati Finance Center  
P.O. Box 979078  
St. Louis, MO 63197-9000

If Respondent sends payment by non-standard mail delivery {e.g. {FedEx, DHL, UPS, USPS certified, registered, etc.}, the payment shall be sent to:

U.S. Environmental Protection Agency  
Cincinnati Finance Center  
Government Lockbox 979078

3180 Rider Trail S.  
Earth City, MO 63045

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

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

If paying by ACH, Respondent shall remit payment to:

US Treasury REX / Cashlink ACH Receiver  
ABA: 051036706  
Account Number: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 - checking

Physical location of US Treasury facility:  
5700 Rivertech Court  
Riverdale, MD 20737  
REX {Remittance Express}: 1-866-234-5681

63. Within 24 hours of payment of the civil penalty the Respondent shall email proof of payment, and a written statement that payment has been made in accordance with this CAFO, to the following persons at the following addresses:

Regional Hearing Clerk  
R4\_Regional\_Hearing\_Clerk@epa.gov

and

David Phillips  
Wastewater Enforcement Branch  
Enforcement and Compliance Assurance Division  
phillips.david@epa.gov

64. "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 the EPA requirements, in the amount due, and identified with the Facility name and "Docket No. CWA-R4-2024-1003{b}."

65. Pursuant to 33 U.S.C. § 1319(g)(9), if Respondent fails to timely pay any portion of the penalty assessed under this CAFO, the EPA may recover, in addition to the amount of the unpaid penalty assessed, the following amounts for any portion overdue:

- A. Interest. Interest will begin to accrue on the civil penalty from the Effective Date of this CAFO. If the civil penalty is paid within 30 days of the Effective Date of this CAFO, Interest is waived. However, if the civil penalty is not paid in full within 30 days of the Effective Date of this CAFO, 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 currently prevailing rates.
- B. Non-Payment Penalty. A 20 percent quarterly nonpayment penalty pursuant to 33 U.S.C. § 1319(g)(9); and
- C. Attorneys' Fees and Costs of Collection. The United States' attorneys' fees and costs of collection.

66. In addition to what is stated in the prior Paragraph, if Respondent fails to timely pay any portion of the penalty assessed under this CAFO, the EPA may:

- A. Refer the debt to a credit reporting agency or a collection agency, 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, 40 C.F.R. Part 13, Subparts C and H;
- C. Suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with the EPA or engaging in programs the EPA sponsors or funds, 40 C.F.R. § 13.17; and/or
- D. Request that the Attorney General bring a civil action in the appropriate district court to recover the amount assessed, in addition to the amounts described above, pursuant to 33 U.S.C. § 1319(g)(9). In any such judicial action, the validity, amount, and appropriateness of the penalty and of this CAFO shall not be subject to review.

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

68. Effective upon signature of this CAFO by the Respondent, the Respondent agrees that the time period commencing on the date of its signature and ending on the earlier of the Effective Date or the end of the Tolling Period in any tolling agreement in existence between Respondent and EPA on the Effective Date of this CAFO shall not be included in computing the running of any statute of limitations potentially applicable to any action brought by the EPA related to the matters addressed in

this CAFO and that, in any action brought by the EPA related to the matters addressed here the Respondent will not assert, and may not maintain, any defense or claim based upon principles of statute of limitations, waiver, laches, estoppel, or other defense based on the passage of time during such period.

69. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, the 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 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 {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 the EPA with sufficient information to enable it to fulfill these obligations, the EPA herein requires, and Respondent herein agrees, that:

- A. 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. Respondent shall therein certify that its completed Form W-9 includes Respondent's correct Tax Identification Number {"TIN"} or that Respondent has applied and is waiting for issuance of a TIN;
- C. Respondent shall email its completed Form W-9 to the EPA's Cincinnati Finance Center Region 4 contact, Jessica Henderson (Henderson.Jessica@epa.gov), within 30 days of the Effective Date of this CAFO, and EPA recommends encrypting IRS Form W-9 email correspondence; and
- D. In the event Respondent has certified in its completed Form W-9 that it has applied for a TIN and that TIN has not been issued to Respondent by the date that its initial penalty payment is due, then 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, within 30 days following the 30-day window in VII.81.C above, that Respondent's initial penalty payment is due; and
  - ii. Provide the EPA's Cincinnati Finance Center with Respondent's TIN, via email, within five {5} days of Respondent's issuance and receipt of the TIN.

## **VIII. EFFECT OF CAFO**

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

71. Full payment of the civil penalty, as provided in Section VII {Terms of Payment} shall satisfy the requirements of this CAFO; but shall not in any case affect the right of the EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. 40 C.F.R. § 22.18(c).

72. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the Act and other federal, state, or local laws or statutes, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit, except as expressly provided herein.

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

74. 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 Administrator.

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

76. 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 Respondent's obligations and responsibilities under this CAFO.

77. By signing this Consent Agreement, Respondent acknowledges that this CAFO will be available to the public and agrees that this CAFO does not contain any confidential business information or personally identifiable information.

78. By signing this Consent Agreement, the Complainant and the undersigned representative of Respondent each certify that he or she is fully authorized to execute and enter into the terms and conditions of this CAFO and has the legal capacity to bind the party he or she represents to this CAFO.

79. 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.

80. By signing this Consent Agreement, 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. 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.

81. The EPA also reserves the right to revoke this CAFO and settlement penalty if and to the extent that the EPA finds, after signing this CAFO, that any information provided by Respondent was materially false or inaccurate at the time such information was provided to the EPA. If such false or inaccurate material was provided, the EPA reserves the right to assess and collect any and all civil penalties for any alleged violation herein. The EPA shall give Respondent notice of its intent to revoke, which shall not be effective until received by Respondent in writing.

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

83. It is the intent of the parties that the provisions of this CAFO are severable. If any provision or authority of this CAFO or the application of this CAFO to any party or circumstances is held by any judicial or administrative authority to be invalid or unenforceable, the application of such provisions to other parties or circumstances and the remainder of the CAFO shall remain in force and shall not be affected thereby.

#### **IX. EFFECTIVE DATE**

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

The foregoing Consent Agreement In the Matter of Cormetech, Inc., Docket No. CWA-04-2024-1003(b), is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:

<div style="border: 1px solid black; border-radius: 50%; padding: 5px; display: inline-block;"><small>DocuSigned by:</small> <i>Mike Mattes</i></div> <div style="border-top: 1px solid black; width: 100%;"></div> <p>Signature</p>	<div style="border-top: 1px solid black; width: 100%;"></div> <p>Date</p>
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Printed Name: Michael F. Mattes

Title: President and Chief Executive Officer

Address: Cormetech, Inc.  
11707 Steele Creek Road  
Charlotte, North Carolina 28273



The foregoing Consent Agreement In the Matter of Cormetech, Inc., Docket No. CWA-04-2024-1003(b), is Hereby Stipulated, Agreed, and Approved for Entry.

FOR COMPLAINANT:

**KERIEMA NEWMAN** Digitally signed by KERIEMA  
NEWMAN  
Date: 2024.09.25 09:31:38 -0400

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:

Cormetech, Inc.,  
Charlotte, North Carolina,

Respondent.

Docket No. CWA-04-2024-1003{b}

**FINAL ORDER**

The Regional Administrator is authorized to ratify this Consent Agreement which memorializes a settlement between Complainant and Respondent. 40 C.F.R. §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.**

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Jeaneanne M. Gettle  
Acting Regional Administrator

## CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order, in the Matter of Cormetech, Inc., Docket No. CWA-04-2024-1003(b), were filed and copies of the same were emailed to the parties as indicated below.

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

To Respondent: Cormetech, Inc.  
c/o Mr. Mark Vasco, General Counsel  
m.vasco@cormetech.com  
11707 Steele Creek Road  
Charlotte, North Carolina 28273

To EPA: Mr. David Phillips  
Regional Pretreatment Program Coordinator  
Phillips.David@epa.gov

Mr. Tyler J. Levy Sniff  
Associate Regional Counsel  
Sniff.Tyler@epa.gov

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