

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)	DOCKET NO.: RCRA-04-2018-4004(b)
)	
Giant Resource Recovery – Sumter, Inc.)	
755 Industrial Road)	Proceeding Under Section 3008(a) of the
Sumter, South Carolina 29150)	Resource Conservation and Recovery Act,
EPA ID No.: SCD036275626)	42 U.S.C. § 6928(a)
)	
Respondent)	
)	
and)	
)	
Nova Molecular Sumter, LLC)	
749 Industrial Road)	
Sumter, South Carolina 29150)	
EPA ID No.: SCR000778381)	
)	
Respondent)	
_____)	

CONSENT AGREEMENT

I. NATURE OF THE ACTION

1. This is a civil administrative enforcement action, pursuant to Section 3008(a) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a), ordering compliance with the requirements of the South Carolina Hazardous Waste Management Act (SCHMWA), S.C. Code Ann. § 44-56-10 *et seq.* [Subtitle C of RCRA, 42 U.S.C. §§ 6921-6939g], the regulations promulgated pursuant thereto and set forth at S.C. Code Ann. Regs. 61-79.124, S.C. Code Ann. Regs. 61-79.260 through 270, and R.61-79.273 [Title 40 of the Code of Federal Regulations (C.F.R.), Parts 260 through 270, and 273], and the RCRA Hazardous Waste Permit Number SCD036275626, issued by the State of South Carolina. This action seeks injunctive relief and the imposition of civil penalties pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for violations of Section 44-56-60(a)(2) and (b) of the SCHWMA, S.C. Code Ann. § 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925], S.C. Code Ann. Regs. 61-79.260 through 270, and R.61-79.273 [40 C.F.R. Parts 260 through 270, and 273], and the RCRA Hazardous Waste Permit Number SCD036275626, issued by the State of South Carolina.
2. The *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, which govern this action and are promulgated at 40 C.F.R. Part 22, provide that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order (CAFO). 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).

3. Complainant and Respondents have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to settle this action. Accordingly, before any testimony has been taken upon the pleadings and without any admission of violation or adjudication of any issue of fact or law and in accordance with 40 C.F.R. § 22.13(b), Complainant and Respondents have agreed to the execution of this CAFO, and Respondents hereby agree to comply with the terms of this CAFO.

II. THE PARTIES

4. Complainant is the Chief of the Chemical Safety and Land Enforcement Branch, Enforcement and Compliance Assurance Division, United States Environmental Protection Agency 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. Respondent; Giant Resource Recovery – Sumter, Inc. (Respondent GRR or GRR) is a corporation incorporated under the laws of the State of South Carolina. Respondent GRR is an owner and operator of a commercial hazardous waste management facility located at 755 Industrial Road, Sumter, South Carolina (the Facility).
6. Respondent Nova Molecular Sumter, LLC (Respondent Nova or Nova) is a limited liability company organized under the laws of the State of Texas. Respondent Nova is an additional operator of certain hazardous waste storage tanks at the Facility.

III. PRELIMINARY STATEMENTS

7. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the State of South Carolina (State) has received final authorization to carry out a hazardous waste program in lieu of the federal program set forth in RCRA. The requirements of the authorized State program are found at SCHWMA, S.C. Code Ann. § 44-56-10 *et seq.* and S.C. Code Ann. Regs. 61-79.260 through 270, and R.61-79.273.
8. 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. South Carolina has received final authorization for certain portions of HSWA, including those recited herein.
9. 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.
10. 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.
11. 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.

12. Sections 44-56-30 and 44-56-35 of the SCHWMA, S.C. Code Ann. §§ 44-56-30 and 44-56-35 [Section 3002(a) of RCRA, 42 U.S.C. § 6922(a)], requires the promulgation of standards applicable to generators of hazardous waste. The implementing regulations for these standards are found at S.C. Code Ann. Regs. 61-79.262 [40 C.F.R. Part 262].
13. Section 44-56-60(a)(2) and (b) of the SCHWMA, S.C. Code Ann. § 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925], sets forth the requirement that a facility treating, storing, or disposing of hazardous waste must have a permit or interim status. The implementing regulations for this requirement are found at S.C. Code Ann. Regs. 61-79.264 (permitted) and R.61-79.265 (interim status) [40 C.F.R. Part 264 (permitted) and Part 265 (interim status)].
14. On May 5, 2009, Respondent GRR submitted a RCRA permit application to the State of South Carolina, which has been subsequently modified a number of times. The initial submittal and all subsequent modifications are collectively referred to as “the RCRA Permit Application”. On June 1, 2011, Respondent GRR was issued a Hazardous Waste Permit by the State of South Carolina, Permit Number SCD036275626 (the “RCRA Permit”), for the treatment and storage of hazardous waste in tanks and containers. The RCRA Permit became effective on July 1, 2011 and expires on July 1, 2021. In August 2014, at the request of Respondents, the RCRA Permit was modified to add Respondent Nova as an additional operator, specifically a joint operator of storage tanks 1741, 1742, 1743, 1746, 1747, 1735A, and 1736A at the Facility.
15. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], “active portion” is defined as that portion of a facility where treatment, storage, or disposal operations are being or have been conducted after the effective date of S.C. Ann. Code Regs. 61-79.261 [40 C.F.R. Part 261] and which is not a closed portion.
16. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], “ancillary equipment” is defined as any device including, but not limited to, such devices as piping, fittings, flanges, valves, and pumps, that is used to distribute, meter, or control the flow of hazardous waste from its point of generation to a storage or treatment tank(s), between hazardous waste storage and treatment tanks to a point of disposal onsite, or to a point of shipment for disposal offsite.
17. 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.”
18. 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.
19. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], a “hazardous waste management unit” (HWMU) is defined as a contiguous area of land on or in which hazardous waste is placed, or the largest area in which there is significant likelihood of mixing hazardous waste constituents in the same area. Examples of HWMUs include a surface impoundment, a waste pile, a land treatment area, a landfill cell, an incinerator, a tank and its associated piping and underlying containment system and a container storage area.

20. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], a “miscellaneous unit” is defined as a hazardous waste management unit where hazardous waste is treated, stored, or disposed of and that is not a container, tank, surface impoundment, pile, land treatment unit, landfill, incinerator, boiler, industrial furnace, underground injection well with appropriate technical standards under 40 C.F.R. Part 146, containment building, corrective action management unit, unit eligible for a research, development, and demonstration permit under S.C. Code Ann. Regs. 61-79.270.65 [40 C.F.R. § 270.65], or staging pile.
21. 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.”
22. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], “partial closure” is defined as the closure of a HWMU in accordance with the applicable closure requirements of S.C. Code Ann. Regs. 61-79.264 and R.61-79.265 [40 C.F.R. Part 264 and Part 265] at a facility that contains other active HWMUs.
23. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], a “person” includes an individual, trust, firm, joint stock company, Federal Agency, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body.
24. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], “storage” means the holding of a hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.
25. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], a “tank” is defined as a stationary device, designed to contain an accumulation of hazardous waste which is constructed primarily of non-earthen materials which provide structural support.
26. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], a “tank system” is defined as a hazardous waste storage or treatment tank and its associated ancillary equipment and containment system.
27. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], “treatment” is defined as any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste, or so as to recover energy or material resources from the waste, or so as to render such waste nonhazardous, or less hazardous; safer to transport, store, or dispose of; or amenable for recovery, amenable for storage, or reduced in volume.
28. 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.
29. 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)].

30. Pursuant to S.C. Code Ann. Regs. 61-79.261.3(a)(2)(i) and R.61-79.261.20 [40 C.F.R. §§ 261.3(a)(2)(i) and 261.20], solid wastes that exhibit any of the characteristics identified in S.C. Code Ann. Regs. 61-79.261.21 through 24 [40 C.F.R. §§ 261.21 through 24] are characteristic hazardous waste and are provided with the EPA Hazardous Waste Numbers D001 through D043.
- a. Pursuant to S.C. Code Ann. Regs. 61-79.261.20 and R.61-79.261.21 [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.
 - b. Pursuant to S.C. Code Ann. Regs. 61-79.261.20 and R.61-79.261.22 [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.
 - c. Pursuant to S.C. Code Ann. Regs. 61-79.261.20 and R.61-79.261.23 [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.
 - d. Pursuant to S.C. Code Ann. Regs. 61-79.261.20 and R.61-79.261.24 [40 C.F.R. §§ 261.20 and 261.24], a solid waste that exhibits the characteristic of toxicity is a hazardous waste and is identified with the EPA Hazardous Waste Numbers D004-D043, which correspond to the toxic contaminant causing it to be hazardous.
31. Pursuant to S.C. Code Ann. Regs. 61-79.261.3(a)(2)(ii) and R.61-79.261.30 [40 C.F.R. §§ 261.3(a)(2)(ii) and 261.30], a solid waste is a listed “hazardous waste” if it is listed under S.C. Code Ann. Regs. 61-79.261, Subpart D [40 C.F.R. Part 261, Subpart D].
- a. Listed hazardous wastes include the F-Listed wastes from nonspecific sources identified in S.C. Code Ann. Regs. 61-79.261.31 [40 C.F.R. § 261.31].
 - b. Listed hazardous wastes include the K-Listed wastes from specific sources identified in S.C. Code Ann. Regs. 61-79.261.32 [40 C.F.R. § 261.32].
 - c. 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].
32. Pursuant to S.C. Code Ann. Regs. 61-79.261.6(c) [40 C.F.R. § 261.6(c)], owners and operators of facilities that store recyclable materials before they are recycled are regulated under all applicable provisions of Subparts A through L, AA, BB and CC of S.C. Code Ann. Regs. 61-79.264, or R.61-79.265 [Subparts A through L, AA, BB and CC of 40 C.F.R. Part 264 or Part 265], and under Parts 124, 266, 267, 268, and 270 of S.C. Code Ann. Regs. 61-79 [40 C.F.R. Parts 124, 266, 267, 268 and 270]. The recycling process is exempt from regulation except as provided in S.C. Code Ann. Regs. 61-79.261.6(d) [40 C.F.R. § 261.6(d)].
33. Pursuant to S.C. Code Ann. Regs. 61-79.261.6(d) [40 C.F.R. § 261.6(d)], owners or operators of facilities subject to RCRA permitting requirements with HWMUs that recycle hazardous wastes are subject to the requirements of Subparts AA and BB of S.C. Code Ann. Regs. 61-79.264, or R.61-79.265 [Subparts AA and BB of 40 C.F.R. Part 264 or Part 265].

34. Pursuant to S.C. Code Ann. Regs. 61-79.262.11 [40 C.F.R. § 262.11 (2016)], a person who generates a solid waste must determine if that waste is a hazardous waste.
35. Pursuant to S.C. Code Ann. Regs. 61-79.262.20(a)(1) [40 C.F.R. § 262.20(a)(1)], a generator who transports, or offers for transport a hazardous waste for offsite treatment, storage, or disposal, or a treatment, storage, and disposal facility who offers for transport a rejected hazardous waste load, must prepare a Manifest (OMB Control number 2050-0039) on EPA Form 8700-22, and, if necessary, EPA Form 8700-22A, according to the instructions included in the appendix to S.C. Code Ann. Regs. 61-79.262 [40 C.F.R. Part 262].
36. Pursuant to the Appendix to S.C. Code Ann. Regs. 61-79.262, “Appendix to Part 262 - Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700-22 and 8700-22A and Their Instructions),” [40 C.F.R. Part 262, Appendix] into Item 1 of EPA Form 8700-22, generators are instructed to enter the generator’s U.S. EPA twelve-digit identification number, or the State generator identification number if the generator site does not have an EPA identification number.
37. Pursuant to the Appendix to S.C. Code Ann. Regs. 61-79.262, “Appendix to Part 262 - Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700-22 and 8700-22A And Their Instructions),” [40 C.F.R. Part 262, Appendix], into Item 13 of EPA Form 8700-22, generators are instructed to enter up to six federal and state waste codes to describe each waste stream identified in Item 9b. Generators are further instructed that state waste codes that are not redundant with federal codes must be entered in Item 13, in addition to the federal waste codes that are most representative of the properties of the waste.
38. Pursuant to S.C. Code Ann. Regs. 61-79.264.52(a) [40 C.F.R. § 264.52(a)], the Facility’s contingency plan must describe the actions Facility personnel must take to comply with S.C. Code Ann. Regs. 61-79.264.51 and R.61-79.264.56 [40 C.F.R. §§ 264.51 and 264.56] in response to fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water at the Facility.
39. Pursuant to S.C. Code Ann. Regs. 61-79.264.52(e) [40 C.F.R. § 264.52(e)], the Facility’s contingency plan must include a list of all emergency equipment at the Facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment), 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.
40. Pursuant to S.C. Code Ann. Regs. 61-79.264.52(f) [40 C.F.R. § 264.52(f)], the Facility’s contingency plan must include an evacuation plan for Facility personnel where there is a possibility that evacuation could be necessary. This plan must describe signal(s) to be used to begin evacuation, evacuation routes, and alternate evacuation routes (in cases where the primary routes could be blocked by releases of hazardous waste or fires).
41. Pursuant to S.C. Code Ann. Regs. 61-79.264.71(c) [40 C.F.R. § 264.71(c)], whenever a shipment of hazardous waste is initiated from a facility, the owner or operator of that facility must comply with the requirements of S.C. Code Ann. Regs. 61-79.262 [40 C.F.R. Part 262].

42. Pursuant to S.C. Code Ann. Regs. 61-79.264.200 [40 C.F.R. § 264.200], the owner or operator shall manage all hazardous waste placed in a tank in accordance with the applicable requirements of S.C. Code Ann. Regs. 61-79.264, Subparts AA, BB, and CC [40 C.F.R. Part 264, Subparts AA, BB, and CC].
43. Pursuant to S.C. Code Ann. Regs. 61-79.264.600 [40 C.F.R. § 264.600], the requirements of S.C. Code Ann. Regs. 61-79.264, Subpart X [40 C.F.R. Part 264, Subpart X] apply to owners and operators that treat, store, or dispose of hazardous waste in miscellaneous units, except as S.C. Code Ann. Regs. 61-79.264.1 [40 C.F.R. § 264.1] provide otherwise.
44. Pursuant to S.C. Code Ann. Regs. 61-79.264.1050 [40 C.F.R. Part 264.1050], the requirements of S.C. Code Ann. Regs. 61-79.264, Subpart BB [40 C.F.R. Part 264, Subpart BB], apply to owners and operators of all facilities that treat, store, or dispose of hazardous waste and operate units that contain or contact hazardous waste with organic concentrations of at least 10 percent by weight.
45. Pursuant to S.C. Code Ann. Regs. 61-79.264.1056(a)(1) [40 C.F.R. § 264.1056(a)(1)] each open-ended valve or line shall be equipped with a cap, blind flange, plug, or a second valve.
46. Pursuant to S.C. Code Ann. Regs. 61-79.264.1064(a) [40 C.F.R. § 264.1064(a)], each owner or operator subject to the provisions of S.C. Code Ann. Regs. 61-79.264, Subpart BB [40 C.F.R. Part 264, Subpart BB] shall comply with the recordkeeping requirements of S.C. Code Ann. Regs. 61-79.264.1064 [40 C.F.R. § 264.1064].
47. Pursuant to S.C. Code Ann. Regs. 61-79.268.50(b) [40 C.F.R. § 268.50(b)] an owner/operator of a treatment, storage or disposal facility may store hazardous wastes restricted from land disposal for up to one year unless the Department [Agency] can demonstrate that such storage was not solely for the purpose of accumulation of such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment, or disposal.
48. Pursuant to S.C. Code Ann. Regs. 61-79.268.50(c) [40 C.F.R. § 268.50(c)] an owner/operator of a treatment, storage or disposal facility may store hazardous wastes restricted from land disposal beyond one year; however, the owner/operator bears the burden of proving that such storage was solely for the purpose of accumulation of such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment, or disposal.
49. Pursuant to S.C. Code Ann. Regs. 61-79.270.2 [40 C.F.R. § 270.2], a “Facility or activity” is defined as any hazardous waste management facility or any other facility or activity (including land or appurtenances thereto) that is subject to regulation under S.C. Code Ann. Regs. 61-79 [40 C.F.R. Parts 260 through 270].
50. Pursuant to S.C. Code Ann. Regs. 61-79.270.41(a)(1) [40 C.F.R. § 270.41(a)(1)], material and substantial alterations or additions to the permitted facility or activity which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit are causes for modification of the permit.
51. Pursuant to S.C. Code Ann. Regs. 61-79.270.42(d)(1) [40 C.F.R. § 270.42(d)(1)], in the case of modifications not explicitly listed in Appendix I of S.C. Code Ann. Regs. 61-79.270.42 [Appendix I of 40 C.F.R. § 270.42], the permittee may submit a Class 3 modification request to

the Department, or he or she may request a determination by the Department that the modification should be reviewed and approved as a Class 1 or Class 2 modification.

52. Pursuant to the RCRA Permit Module I (“*General Permit Conditions*”), Condition I.A. (“*Effect of Permit*”), the Permittee shall treat and store hazardous waste, and perform corrective action in accordance with the Conditions of the RCRA Permit. Any storage, treatment, and/or disposal of hazardous waste not authorized in the RCRA Permit is prohibited, except as allowed by the South Carolina Hazardous Waste Management Regulations, S.C. Code Ann. Regs. 61-79 [40 C.F.R. Parts 260 through 270].
53. Pursuant to the RCRA Permit Module I (“*General Permit Conditions*”), Condition I.B.1. (“*Permit Modification, Revocation and Reissuance, and Termination*”), the RCRA Permit may be modified, revoked and reissued, or terminated for cause as specified in S.C. Code Ann. Regs. 61-79.270.41, R.61-79.270.42, and R.61-79.270.43 [40 C.F.R. §§ 270.41 through 43]. The filing of a request for a Permit Modification, revocation and reissuance, or termination, or the notification of planned changes or anticipated noncompliance on the part of the Permittee does not stay the applicability or enforceability of any Permit Condition (S.C. Code Ann. Regs. 61-79.270.30(f) [40 C.F.R. § 270.30(f)]).
54. Pursuant to the RCRA Permit, Module I (“*General Permit Conditions*”), Condition I.D.20 (“*Solid Waste Management Unit (SWMU)*”) a SWMU includes any unit that has been used for the treatment, storage, or disposal of solid waste at any time, irrespective of whether the unit is or ever was intended for the management of solid waste. RCRA hazardous waste management units (HWMUs) are also SWMUs. SWMUs include areas that have been contaminated by routine and systematic releases of hazardous waste or hazardous constituents, excluding one-time accidental spills that are immediately remediated and cannot be linked to solid waste management activities.
55. Pursuant to the RCRA Permit, Module I (“*General Permit Conditions*”), Condition I.D.11 (“*Hazardous Waste Management Unit*”), for purposes of the RCRA Permit, a hazardous waste management unit (“HWMU”) is a contiguous area of land on or in which hazardous waste is managed, or the largest area in which there is significant likelihood of mixing hazardous waste constituents in the same area. Examples of HWMUs include surface impoundments, waste piles, land treatment areas, landfill cells, incinerators, tanks and their associated piping and underlying containment system, and container storage areas. Although a container alone does not constitute a unit, the unit includes containers and the land or pad upon which they are managed.
56. Pursuant to the RCRA Permit Module I (“*General Permit Conditions*”), Condition I.E.10. (“*Reporting Planned Changes*”), the Permittee shall give notice to the Department as soon as possible of any planned physical alterations or additions to the Permitted facility, which may impact any HWMUs, SWMUs, Areas of Concern (AOCs), or the areas contaminated by them (S.C. Code Ann. Regs. 61-79.270.30(l)(1) [40 C.F.R. § 270.30(l)(1)]).
57. Pursuant to the RCRA Permit Module I (“*General Permit Conditions*”), Condition I.E.11. (“*Reporting Anticipated Noncompliance*”), the Permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity, which may result in noncompliance with permit requirements. The Permittee may not commence storage, or treatment of hazardous waste in the modified portion of the facility until the Permittee has submitted to the Department, by certified mail or hand delivery, a letter signed by the Permittee

and a registered professional engineer stating that the facility has been constructed or modified in compliance with the RCRA Permit; and (a) The Department has inspected the modified or newly constructed facility and finds it is in compliance with the Conditions of the RCRA Permit (S.C. Code Ann. Regs. 61-79.270.30(1)(2) [40 C.F.R. § 270.30(1)(2)]); or (b) The Department has either waived the inspection or has not, within fifteen (15) days of receipt of the above letter, notified the Permittee of its intent to inspect (S.C. Code Ann. Regs. 61-79.270.30(1)(2) [40 C.F.R. § 270.30(1)(2)]).

58. Pursuant to the RCRA Permit Module II (“*General Facility Conditions*”), Condition II.A. (“*Design and Operation of Facility*”), the Permittee shall construct, maintain and operate the facility in a manner to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment, as required by S.C. Code Ann. Regs. 61-79.264.31 [40 C.F.R. § 264.31].
59. Pursuant to the RCRA Permit Module II (“*General Facility Conditions*”), Condition II.E.1. (“*Implementation of Plan*”), the Permittee shall immediately carry out the provisions of the Contingency Plan, Section G of the approved RCRA Permit Application, whenever there is a fire, explosion, or release of hazardous waste or constituents, which could threaten human health or the environment. As applicable, the plan must cover the requirements of S.C. Code Ann. Regs. 61-79.264.50 through 56 [40 C.F.R. §§ 264.50 through 56].
60. Pursuant to the RCRA Permit Module III (“*Containers*”), Condition III.A. (“*Module Highlights*”), the conditions of Module III apply to Storage Area SA-5 and Storage Area SA-6. As set forth in the approved RCRA Permit Application, Section D (“*Process Information*”), subsections D-3a (“*Upper Drum Storage Building (Storage Area 6)*”) and D-3b (“*Lower Drum Storage Building (Storage Area 5)*”), “*Subpart CC Compliance*,” management of waste in containers is subject to both the Level 1 requirements (S.C. Code Ann. Regs. 61-79.264.1086(c) [40 C.F.R. § 264.1086(c)]) and Level 2 requirements (S.C. Code Ann. Regs. 61-79.264.1086(d) [40 C.F.R. § 264.1086(d)]) under S.C. Code Ann. Regs. 61-79.264, Subpart CC [40 C.F.R. Part 264, Subpart CC].
61. Pursuant to the RCRA Permit Module III (“*Containers*”), Condition III.A. (“*Module Highlights*”), Permitted Container Storage Area SA-5 includes the storage and treatment of hazardous waste with compacting process and fuel blending operations performed in disperser tanks. As set forth in the approved RCRA Permit Application, Section D (“*Process Information*”), subsection D-6(d) (“*Disperser Tanks (Lower Drum Building)*”), “*Subpart CC Compliance*,” the Disperser Tanks are subject to Level 1 controls as a result of the size of the tanks and the maximum vapor pressure. All tank closures must be kept sealed such that there are no visible cracks or gaps while storing or processing hazardous wastes when wastes are not being added, and tank closures are to be equipped with gasket material (where applicable) made of material that is suitably resistant to degradation caused by solvents that are routinely managed.
62. Pursuant to the RCRA Permit Module III (“*Containers*”), Condition III.B.1. (“*Permitted Waste Storage*”), a maximum volume of 31,900 gallons of waste may be stored in the Permitted Container Storage Area SA-6.
63. Pursuant to the RCRA Permit Module III (“*Containers*”), Condition III.C. (“*Condition and Type of Containers*”), if a container holding hazardous waste is not in good condition or if it begins to

leak, the hazardous waste shall be transferred from such container to a container that is in good condition or otherwise managed in compliance with the conditions of the RCRA Permit and the requirements of S.C. Code Ann. Regs. 61-79.264, Subpart I [40 C.F.R. Part 264, Subpart I].

64. Pursuant to the RCRA Permit Module III (“*Containers*”), Condition III.E. (“*Management of Containers*”), all containers shall be kept closed during storage, except when it is necessary to add or remove waste, and the containers shall not be opened, handled, or stored in a manner that may rupture the container or cause it to leak (S.C. Code Ann. Regs. 61-79.264.173 [40 C.F.R. § 264.173]).
65. Pursuant to the RCRA Permit Module III (“*Containers*”), Condition III.F. (“*Containment Systems*”), the containment system shall be maintained free of cracks or gaps and sufficiently impervious to contain leaks, spills, and accumulate precipitation until removed; and shall be operated in accordance with S.C. Code Ann. Regs. 61-79.264.175 [40 C.F.R. § 264.175] and with the approved RCRA Permit Application, Section D (“*Process Information*”).
66. Pursuant to the RCRA Permit Module IV (“*Tanks*”), Condition IV.D.2. (“*Air Emission Standards*”), the Permittee shall ensure that all hazardous waste placed in tanks is managed in compliance with S.C. Code Ann. Regs. 61-79.264.200 [40 C.F.R. § 264.200].
67. Pursuant to the RCRA Permit Module VIII (“*Land Disposal Restrictions*”), Condition VIII.A. (“*General Restrictions*”), the Permittee shall maintain compliance with the requirements of S.C. Code Ann. Regs. 61-79.268 [40 C.F.R. Part 268].
68. Pursuant to the RCRA Permit Module VIII (“*Land Disposal Restrictions*”), Condition VIII.B.2. (“*Storage Prohibition*”), the storage of hazardous wastes restricted from land disposal under S.C. Code Ann. Regs. 61-79.268 [40 C.F.R. Part 268] is prohibited unless the requirements of S.C. Code Ann. Regs. 61-79.268, Subpart E [40 C.F.R. Part 268, Subpart E] are met.
69. Pursuant to the RCRA Permit Module IX (“*Organic Air Emission Requirements*”), the Permittee shall comply with the applicable requirements of S.C. Code Ann. Regs. 61-79.264, Subparts BB and CC [40 C.F.R. Part 264, Subparts BB and CC].
70. Pursuant to the RCRA Permit Module IX (“*Organic Air Emission Requirements*”), Condition IX.B. (“*Emission Control Technology*”), the Permittee shall comply with the applicable requirements of S.C. Code Ann. Regs. 61-79.264, Subparts AA and BB [40 C.F.R. Part 264, Subparts AA and BB]. The Permittee shall install and maintain all regulated units and associated emission control technology in accordance with the detailed plans, schedules, information and reports as contained in Section M of the RCRA Permit Application.
71. Pursuant to the RCRA Permit Module IX (“*Organic Air Emission Requirements*”), Condition IX.D.1. (“*Notification of New Units*”), prior to installing any equipment subject to the requirements of S.C. Code Ann. Regs. 61-79.264, Subpart BB [40 C.F.R. Part 264, Subpart BB] or modifying the current process such that the existing equipment previously not subject to the requirements of S.C. Code Ann. Regs. 61-79.264, Subpart BB [40 C.F.R. Part 264, Subpart BB], the Permittee shall supply the specified Part B information required pursuant to S.C. Code Ann. Regs. 61-79.270.24 through 25 [40 C.F.R. §§ 270.24 through 25], as applicable, and shall obtain a Permit Modification in accordance with the requirements of S.C. Code Ann. Regs. 61-79.270.42 [40 C.F.R. § 270.42].

72. Pursuant to the RCRA Permit, Appendix A (“*Solid Waste Management Unit and Area of Concern Summary*”), the “Process Area - recycling/distillation area with 3 vertical tanks” is identified as SWMU 6.
73. Pursuant to the approved RCRA Permit Application, Attachment Ten (10), Revised Section M (“*Air Emission Standards*”), May 2014 (Rev 4), Subsection M-1 (“*Subpart AA – Air Emission Standards for Process Vents*”), the Permittee operates several hazardous waste recycling units that are located within the Process Area at the Facility which are described as “RCRA exempt recycling units” in the Application. However, “they are required to comply with the Air Emission Standards for Process Vents (S.C. Code Ann. Regs. 61-79.264, Subpart AA [40 C.F.R. Part 264, Subpart AA]) since they are hazardous waste recycling units that are located on a hazardous waste management facility otherwise subject to the permitting requirements of (S.C. Code Ann. Regs. 61-79.270 [40 C.F.R. Part 270]).”
74. Pursuant to the approved RCRA Permit Application, 05/04/09 (RV1), Section D (“*Process Information*”), May 2014 (Rev 4), Subsection D-3 (“*Container Management*”), Paragraph D-3a (“*Upper Drum Building (Container Storage Area No. 6)*”), “*Unit Description*”, the floor in SA-6 has been coated with an epoxy polyamide coating (or a functionally equivalent replacement), which is compatible with the stored waste.

IV. EPA ALLEGATIONS AND DETERMINATIONS

75. Respondents are each a “person” as defined in S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10].
76. Respondent GRR is the “owner/operator” of a “facility” located at 755 Industrial Road, Sumter, South Carolina, as those terms are defined in S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10].
77. Respondent Nova is an additional “operator” of several tanks at the “facility” located at 755 Industrial Road, Sumter, South Carolina, as those terms are defined in S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10].
78. Respondents are each a “generator” of “hazardous waste” as those terms are defined in S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10] and S.C. Code Ann. Regs. 61-79.261.3 [40 C.F.R. § 261.3].
79. Respondent GRR owns and operates a commercial hazardous waste management facility on an approximately 18-acre site in Sumter, South Carolina. Respondent Nova is an additional operator of several hazardous waste tanks at the Facility. The recognized industrial waste services and capabilities available from GRR at the Facility include: fuel blending of hazardous and non-hazardous wastes; non-hazardous solid waste processing for landfill disposal and waste-to-energy; non-hazardous waste processing by treatment and discharge to a publicly owned treatment works or stabilizing and landfill disposal; hazardous waste collection and bulking; industrial oil collection and processing for fuels blending or resale; laboratory services; processing of high temperature wastes and wastes requiring special handling; and collection and processing of solid wastes to be sent to incinerators for burning.

80. Respondent Nova operates a solvent recovery process on a parcel of land at the Facility leased from Respondent GRR. The recognized industrial waste services and capabilities available from Respondent Nova include solvent recovery/reclamation and product distillation.
81. Respondent GRR is a large quantity generator of hazardous waste with the EPA ID Number SCD036275626, and the owner and an operator of the Facility, a permitted hazardous waste treatment, storage and disposal facility with the RCRA Permit Number that corresponds to the same EPA ID Number, i.e., SCD036275626.
82. Respondent Nova is a large quantity generator of hazardous waste; its generator ID is EPA ID Number SCR000778381. Respondent Nova is also an operator of tanks 1741, 1742, 1743, 1746, 1747 (“40 series tanks”), and 1735A and 1736A (“30 series tanks”) located at the Facility, a permitted hazardous waste treatment, storage and disposal facility with the RCRA Permit Number SCD036275626.
83. On December 2-4, 2015, inspectors with the EPA and with the South Carolina Department of Health and Environmental Control (SCDHEC) conducted a compliance evaluation inspection (CEI) at the Facility. The EPA’s findings of the CEI were documented in a Report mailed to Respondents, dated May 25, 2016.
84. On April 19, 2017, inspectors with SCDHEC conducted a CEI at the Facility. The findings of the CEI were documented in a Report mailed to Respondent GRR, dated May 31, 2017.
85. In a letter dated January 8, 2018, SCDHEC referred the violations noted during the April 19, 2017 CEI to the EPA for enforcement.
86. During the December 2-4, 2015 RCRA CEI, the EPA and SCDHEC inspectors (the inspectors) observed multiple items and containers of inherently waste-like material being stored in the location at the facility known as the sample shed; facility personnel informed the inspectors that some of these items and containers had been stored by Respondent GRR at the sample shed for a period of at least one-year.
87. The EPA therefore alleges Respondent GRR violated S.C. Code Ann. Regs. 61-79.262.11 [40 C.F.R. § 262.11 (2016)] by failing to make a hazardous waste determination on the materials in the items and containers located in the sample shed.
88. During the December 2-4, 2015 RCRA CEI, in the Permitted Container Storage Area SA-6 the inspectors observed one pallet holding two 85-gallon containers of hazardous waste and one 55-gallon container of hazardous waste, stacked above a second pallet on which were located four 55-gallon containers of hazardous waste. One of the 85-gallon containers on the upper pallet was observed to be hanging over the edge of the uppermost pallet and not completely supported.
89. The EPA therefore alleges Respondent GRR violated Condition II.A. of the RCRA Permit, by failing to maintain and operate the facility in a manner to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment, as required by S.C. Code Ann. Regs. 61-79.264.31 [40 C.F.R. § 264.31].

90. The EPA therefore also alleges Respondent GRR violated Condition III.E. of the RCRA Permit by handling or storing a container in a manner that may rupture the container or cause it to leak.
91. During the December 2-4, 2015 RCRA CEI, the inspectors observed that the process/distillation area included eight (8) distillation columns. The inspectors were informed that Respondent Nova was operating these eight (8) distillation columns, that a ninth (9th) distillation column was to be constructed, and that the distillation system is used to process both hazardous and non-hazardous wastes and materials as well as for the performance of product distillation activities.
92. In a submittal dated November 21, 2016, Respondents explained that Respondent Nova also operates tanks numbered 1744A through 1744D, 1745, TA-209A, TA-209B, and TA-210 as distillation product/intermediate tanks.
93. Pursuant to the approved RCRA Permit Application, May 2014 Rev 4, Section D “*Process Information*,” the contents of storage tanks, bulk tankers, and containers of reclaimable liquid wastes may be pumped to the distillation units for solvent recovery. (See Subsection D-1, *General Facility Information -- Reclamation*.) The RCRA Permit Application describes “several” RCRA-exempt distillation units located within the Process Area (a/k/a Distillation Area), and the Schematic Process Flow Diagram (Appendix D-1, Drawing No. A.D-008) identifies three such units, none of which are the tanks numbered 1744A through 1744D, 1745, TA-209A, TA-209B, and TA-210. (See Revised Section M *Air Emission Standards*, Subsection M-1, *Subpart AA – Air Emission Standards for Process Vents*, and Figure G-1 of the approved RCRA Permit Application.)
94. The EPA therefore alleges Respondents violated Condition I.E.10 of the RCRA Permit by failing to give notice to the Department as soon as possible of any planned physical alterations or additions to the Permitted facility, which may impact any HWMUs, SWMUs, Areas of Concern (AOCs), or the areas contaminated by them (S.C. Code Ann. Regs. 61-79.270.30(l)(1) [40 C.F.R. § 270.30(l)(1)]).
95. The EPA therefore also alleges Respondents violated Condition IX.D.1 of the RCRA Permit by failing to supply the specified RCRA Permit Application information required pursuant to S.C. Code Ann. Regs. 61-79.270.24 and R.61-79.270.25 [40 C.F.R. §§ 270.24 and 270.25], as applicable, and obtain a Permit Modification in accordance with the requirements of S.C. Code Ann. Regs. 61-79.270.42 [40 C.F.R. § 270.42] prior to installing any equipment subject to the requirements of S.C. Code Ann. Regs. 61-79.264, Subpart BB [40 C.F.R. Part 264, Subpart BB] or modifying the current process such that the existing equipment previously not subject to the requirements of S.C. Code Ann. Regs. 61-79.264, Subpart BB [40 C.F.R. Part 264, Subpart BB].
96. During the December 2-4, 2015 RCRA CEI, the inspectors observed that each of the Respondents had a separate Contingency Plan, and further observed that the map included in Respondent GRR’s Contingency Plan included both existing and contemplated operations at the Facility.
97. The EPA therefore alleges Respondents violated Condition II.E.1 of the RCRA Permit by failing to have a Contingency Plan as contemplated under the approved RCRA Permit Application and required under S.C. Code Ann. Regs. 61-79.264.50 through 51 [40 C.F.R. §§ 264.50 through 51] describing the actions Facility personnel must take in response to fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents;

that includes a current list describing the location, physical description, and capabilities of all emergency equipment, communications and alarm systems, and decontamination equipment at the facility; an evacuation plan for facility personnel describing signal(s) to be used to begin evacuation, evacuation routes, and alternate evacuation routes.

98. During the December 2-4, 2015 RCRA CEI, the inspectors observed that three (3) of Respondent GRR's hazardous waste manifests included the wrong generator EPA ID number.
99. The EPA therefore alleges Respondent GRR violated S.C. Code Ann. Regs. 61-79.262.20(a)(1) [40 C.F.R. § 262.20(a)(1)], by failing to include the generator's U.S. EPA twelve-digit identification number in Item 1 under Section I. "Instructions for Generators," as set forth in the instructions for preparing a Manifest on EPA Form 8700-22.
100. During the December 2-4, 2015 RCRA CEI, the inspectors observed seven (7) hazardous waste manifests on which hazardous waste codes were missing or which did not correspond to those codes found on the waste profile information contained in the corresponding quarterly report.
101. The EPA therefore alleges Respondent GRR violated S.C. Code Ann. Regs. 61-79.262.20(a)(1) [40 C.F.R. § 262.20(a)(1)], by failing to enter up to six federal and state waste codes to describe each waste stream for Item 13 under Section I. "Instructions for Generators," as described in the instructions for preparing a Manifest (OMB Control number 2050-0039) on EPA Form 8700-22.
102. During the December 2-4, 2015 RCRA CEI, the inspectors observed a dent in one of the structural reinforcement ribs of a 55-gallon hazardous waste storage container in the Permitted Container Storage Area SA-6.
103. The EPA therefore alleges Respondent GRR violated Condition III.C of the RCRA Permit by failing to transfer the hazardous waste from a container that is not in good condition to a container that is in good condition or otherwise manage the waste in compliance with the conditions of the RCRA Permit and the requirements of S.C. Code Ann. Regs. 61-79.264, Subpart I [40 C.F.R. Part 264, Subpart I].
104. During the December 2-4, 2015 RCRA CEI, a review of the operating record by the inspectors revealed that the total amount of waste in the Permitted Container Storage Area 6 exceeded the permitted storage capacity limit of 31,900 gallons specified in the RCRA Permit for this area. A review of the operating records revealed to the inspectors that Respondent GRR had also exceeded the permitted storage capacity in the same area on September 15, 2015.
105. The EPA therefore alleges Respondent GRR violated Condition III.B.1 of the RCRA Permit by storing greater than the maximum volume of 31,900 gallons of waste in Permitted Container Storage Area SA-6.
106. During the December 2-4, 2015 RCRA CEI, the inspectors observed full containers of hazardous waste that were being stored in seven (7) box trailers parked at the loading dock outside of Permitted Container Storage Area SA-5. The inspectors were informed by facility personnel that the containers had been received by Respondent GRR at Permitted Container Storage Area SA-6, and subsequently loaded into the seven (7) box trailers which, in turn, had been driven to their observed location at the loading dock just outside of Permitted Container Storage Area SA-5.

107. The EPA therefore alleges Respondent GRR violated Condition I.A. of the RCRA Permit by failing to store hazardous waste in accordance with the Conditions of the RCRA Permit.
108. During the December 2-4, 2015 RCRA CEI, the inspectors made extensive observations of Respondent GRR's operation of the drum tipper and disperser tank, which Respondent GRR used to treat volatile organic hazardous wastes. The inspectors observed Respondent GRR's process for emptying drums using the drum tipper and auger, its process for separating liquids from the solid materials and for manually sorting the solid materials, and its process for cleaning the disperser tank's inline filters. All of these observed processes allowed volatile organic hazardous wastes to be fully exposed to the atmosphere for an extended period of time. The inspectors further observed that these wastes were being allowed to accumulate on the Disperser Tank's closure mechanisms during these processes and would thereby ultimately prevent the Disperser Tank from being adequately closed.
109. The EPA therefore alleges that Respondent GRR violated Condition I.A of the RCRA Permit by failing to treat and store hazardous waste in accordance with the Conditions of the RCRA Permit or S.C. Code Ann. Regs. 61-79 [40 C.F.R. Parts 260 through 270].
110. The EPA therefore alleges Respondent GRR violated Condition IV.D.2 of the RCRA Permit by failing to ensure that all hazardous waste placed in tanks is managed in compliance with S.C. Code Ann. Regs. 61-79.264.200 [40 C.F.R. § 264.200].
111. During the April 19, 2017 RCRA CEI, SCDHEC inspectors observed that the open-ended valves associated with Tags 515A and 525A located in the 30 Series Tank Farm were missing end caps from the ball valves.
112. The EPA therefore alleges Respondent GRR violated Condition IX.B of the RCRA Permit and S.C. Code Ann. Regs. 61-79.264.1056(a)(1) [40 C.F.R. § 264.1056(a)(1)] by failing to equip each open-ended valve or line with a cap, blind flange, plug, or a second valve.
113. During the December 2-4, 2015 RCRA CEI, following a request by the inspectors, the Respondents were not able to provide a set of complete written records demonstrating compliance with S.C. Code Ann. Regs. 61-79, Part 264, Subpart BB [40 C.F.R. Part 264, Subpart BB]. The inspection and air monitoring forms presented upon the inspectors' request excluded: Necessary monitor calibration detail; instructions for corrective action upon discovery of a leak, including tagging, maintenance and retest procedures; verification and renewal of monitor or inspector training; and notation of corrective action taken.
114. The EPA therefore alleges Respondents violated S.C. Code Ann. Regs. 61-79.264.1064(a)(1) [40 C.F.R. § 264.1064(a)(1)], by failing to comply with the pertinent recordkeeping requirements of S.C. Code Ann. Regs. 61-79.264.1064(b) through (k) [40 C.F.R. § 264.1064(b) through (k)].
115. The EPA therefore alleges Respondents violated Condition IV.D.2 of the RCRA Permit by failing to ensure that all hazardous waste placed in tanks is managed in compliance with S.C. Code Ann. Regs. 61-79.264.200 [40 C.F.R. § 264.200] due to the failure to manage all hazardous waste placed in a tank in accordance with the applicable requirements of S.C. Code Ann. Regs. 61-79.264, Subpart BB [40 C.F.R. Part 264, Subpart BB].

116. During the December 2-4, 2015 RCRA CEI, the inspectors observed individuals in the employ of Respondent GRR adding hazardous waste to a roll-off container which already contained hazardous waste from an unrelated waste stream.
117. The EPA therefore alleges Respondents violated Condition I.A of the RCRA Permit by undertaking treatment, storage, or disposal of hazardous waste in a manner not authorized in the RCRA Permit and not allowed under S.C. Code Ann. Regs. 61-79 [40 C.F.R. Parts 260 through 270].
118. During the December 2-4, 2015 RCRA CEI, the inspectors observed that the required impervious coating that had been applied upon the surface of the secondary containment area in SA-6 was peeling off.
119. During the April 19, 2017 RCRA CEI, SCDHEC inspectors observed that the required impervious coating that had been applied to the surface of the secondary containment area in SA-6 had undergone further deterioration as evidenced by several areas where the painted layer of the coating had been chipped away.
120. The EPA therefore alleges Respondents violated Condition III.F. of the RCRA Permit by failing to adequately maintain the epoxy polyamide coating (or provide a functionally equivalent replacement) on the floor of the secondary containment area in SA-6.
121. During the April 19, 2017 RCRA CEI, SCDHEC inspectors observed that Storage Area 5 included one (1) 55-gallon drum of land-disposal-restricted hazardous waste and that Storage Area 6 included two (2) 55-gallon drums of land-disposal-restricted hazardous waste, each of which had been in storage for greater than one year.
122. The EPA therefore alleges Respondent GRR violated Condition VIII.B.2 of the RCRA Permit by storing hazardous wastes restricted from land disposal under S.C. Code Ann. Regs. 61-79.268 [40 C.F.R. Part 268] without meeting the requirements of S.C. Code Ann. Regs. 61-79.268.50 [40 C.F.R. § 268.50].

V. TERMS OF AGREEMENT

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

123. For the purposes of this CAFO, each Respondent admits the jurisdictional allegations set out in the above paragraphs pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928.
124. Each Respondent neither admits nor denies the factual allegations and determinations set out in this CAFO.
125. Each Respondent waives any right to contest the allegations and its right to appeal the proposed Final Order accompanying the Consent Agreement.
126. Each Respondent waives its rights to challenge the validity of this CAFO and the settlement of the matters addressed in this CAFO based on any issue related to the Paperwork Reduction Act, 44 U.S.C. § 3501 *et seq.*

127. Each Respondent 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.
128. Each Respondent waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that 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 through 706.
129. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of RCRA.
130. Each Respondent consents to the issuance of this compliance order.
131. Each Respondent consents to the conditions specified in this CAFO.
132. The parties agree that compliance with the terms of this CAFO shall resolve the violations alleged and the facts stipulated to in this CAFO.
133. Each party will pay its own costs and attorneys' fees.
134. The terms, conditions, and compliance requirements of this Consent Agreement may not be modified or amended except upon the written agreement of the Parties, and approval of the Regional Judicial Officer.
135. Within one hundred and eighty (180) calendar days of receipt of the executed copy of this CAFO, Respondents shall submit to the EPA a certification signed by a duly authorized representative stating that all the violations alleged in this CAFO have been corrected. This certification shall be as follows:

“I certify under penalty of law, to the best of my knowledge and belief, that all violations alleged against [Respondent GRR or Respondent Nova, as appropriate] in this CAFO have been corrected. All work was done under my direction or supervision according to a system designed to assure that qualified personnel implemented and completed the required tasks. This certification is based on my inquiry of the person(s) who performed the tasks, or those persons directly responsible for the person(s) who performed the tasks. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

136. The certification required to be submitted under this CAFO shall be mailed and emailed to:

Laurie Benton DiGaetano,
Senior Enforcement and Compliance Specialist
U.S. Environmental Protection Agency, Region 4
RCRA Enforcement Section
Chemical Safety and Land Enforcement Branch

Enforcement and Compliance Assurance Division
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
benton-digaetano.laurie@epa.gov

137. 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.

VI. WORK TO BE PERFORMED

138. Within ninety (90) calendar days of the effective date of this CAFO:
- a. Respondent GRR shall submit to SCDHEC, with a copy to the EPA, a clear and concise description of the standard operating procedures Respondent shall follow with respect to activities involving the Sample Shed. The procedures' scope shall encompass but be not limited to sample collection and tracking, container management, sample holding times, hazardous waste determination, sample disposal and recordkeeping for materials that are managed in the Sample Shed.
 - b. Respondents shall submit to SCDHEC, with a copy to the EPA, a permit renewal application or a permit modification request containing Respondents' hazardous waste contingency plan for the entire Facility, including procedures for communicating and coordinating between Respondents in the event the contingency plan is activated, as contemplated under S.C. Code Ann. Regs. 61-79-264.54 [40 C.F.R. § 264.54].
 - c. Respondent GRR shall submit to SCDHEC, with a copy to the EPA, a description of the procedures Respondent shall follow to ensure that the total volume of waste stored at the Facility does not exceed the permitted storage capacity in either permitted container storage area or the total permitted storage capacity at the Facility.
 - d. Respondent GRR shall submit to SCDHEC, with a copy to the EPA, certification that an epoxy polyamide coating (or a functional equivalent) has been applied to the surface of the secondary containment area SA-6.
 - e. Respondents shall provide any information requested by SCDHEC to obtain approval of its modification describing any physical alterations or additions made to SWMU 6.
 - f. Respondents shall submit to SCDHEC, with a copy to the EPA, a written Leak Detection and Repair (LDAR) Plan for conducting fugitive emission detection and control activities throughout the Facility including the fugitive emission inspection and monitoring requirements performed pursuant to applicable test methods and procedural requirements. The Plan shall include but be not limited to: training criteria for personnel (internal and external) conducting the LDAR inspection, monitoring and repair activities; training plans for personnel conducting the LDAR inspection, monitoring and repair activities; documentation system for tracking training and performance of personnel performing the LDAR activities; communications plan for internal coordination, coordination between the Respondents, and for communication

with external third-party LDAR service providers for compliance with and audit of the LDAR program; monitoring and audit plans for ensuring third-party LDAR services are compliant with the written LDAR Plan and RCRA Organic Air Emission Standards; inspection and monitoring forms demonstrating compliance with the LDAR program per Module IX ("*Organic Air Emission Requirements*") and Condition IV.D.2. ("*Air Emission Standards*") of the RCRA Permit.

139. Respondent GRR shall, within 150 calendar days of the effective date of this CAFO, elect to either:
- a. Cease staging or storing hazardous waste in areas not expressly permitted for the management of hazardous waste, such as in box trailers at loading docks outside the permitted storage areas at the Facility, and notify SCDHEC and the EPA to that effect, or
 - b. Submit to SCDHEC, with a copy to the EPA, a permit renewal application or permit modification request to include procedures pertaining to the transfer of hazardous waste between and/or among container Storage Areas.
140. Within 150 calendar days of the effective date of this CAFO, Respondent GRR shall submit to SCDHEC, with a copy to the EPA, a permit renewal application or request for modification of the RCRA Permit to include as authorized treatment the bulking of hazardous waste in the Roll-off containers. The Application shall include, as appropriate, updates to Module III ("*Containers*"), Condition III.A. ("*Module Highlights*") of the RCRA Permit and Module IX ("*Organic Air Emission Requirements*"), Condition IX.B. ("*Emission Control Technology*") of the RCRA Permit.

VII. PAYMENT OF CIVIL PENALTY

141. Respondents consent to the payment of a civil penalty in the amount of **EIGHTY FIVE THOUSAND, TWO HUNDRED AND SEVENTY FIVE DOLLARS (\$85,275.00)**, which is to be paid within thirty (30) calendar days of the effective date of this CAFO, with the understanding that Respondents are jointly and severally liable for payment of the full civil penalty amount.
142. Payment(s) shall be made by 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 Respondents send payment by the U.S. Postal Service, the payment shall be addressed to:

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

If Respondent(s) send(s) payment by non-U.S. Postal express mail delivery, the payment shall be sent to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, Missouri 63101
(314) 425-1819

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

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

If paying by ACH, Respondent(s) shall remit payment to:

US Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking
Physical location of US Treasury facility:
5700 Rivertech Court
Riverdale, Maryland 20737
Contact: John Schmid, (202) 874-7026
REX (Remittance Express): 1-866-234-5681

143. Respondent(s) shall submit proof of the payment within 24 hours of payment of the civil penalty to the following individuals:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
R4_Regional_Hearing_Clerk@epa.gov

And

Laurie Benton DiGaetano
Senior Enforcement and Compliance Specialist
U.S. Environmental Protection Agency, Region 4
RCRA Enforcement Section
Chemical Safety and Land Enforcement Branch
Enforcement and Compliance Assurance Division

61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
benton-digaetano.laurie@epa.gov

144. "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. RCRA-04-2018-4004(b)"
145. If Respondents fail to remit the civil penalty as agreed to herein, the EPA is required to assess interest and penalties on debts owed to the United States and a charge to cover the costs of processing and handling the delinquent claim. Interest, at the statutory judgment rate provided for in 31 U.S.C. § 3717, will therefore begin to accrue on the civil penalty if not paid within 30 calendar days after the effective date of this CAFO. Pursuant to 31 U.S.C. § 3717, Respondents must pay the following amounts on any amount overdue:
- (a) Interest. Any unpaid portion of a civil penalty or stipulated penalty must bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Interest will therefore begin to accrue on a civil penalty or stipulated penalty if it is not paid by the last date required. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 4 C.F.R. § 102.13(c).
 - (b) Monthly Handling Charge. Respondents must pay a late payment handling charge of fifteen dollars (\$15.00) on any late payment, with an additional charge of fifteen dollars (\$15.00) for each subsequent thirty (30) calendar-day period over which an unpaid balance remains.
 - (c) Non-Payment Penalty. On any portion of a civil penalty or a stipulated penalty more than ninety (90) calendar days past due, Respondents must pay a non-payment penalty of six percent (6%) per annum, which will accrue from the date the penalty payment became due and is not paid. This non-payment is in addition to charges which accrue or may accrue under subparagraphs (a) and (b).
146. Penalties paid pursuant to this CAFO are not deductible for federal purposes under 26 U.S.C. § 162(f).

VIII. PARTIES BOUND

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

150. Each Respondent shall be obligated to perform the actions assigned to it in Section VI of this CAFO. Where Section VI of this CAFO requires "Respondents" to perform an action, Respondents are jointly and severally obligated to perform the action. The obligation of the Respondents for payment of the civil penalty specified in Section VII is joint and several.

IX. RESERVATION OF RIGHTS

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

X. OTHER APPLICABLE LAWS

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

XI. TERMINATION

155. When Respondents believe that they have complied with all the requirements of the CAFO, including compliance with the Work to be Performed and payment of the civil penalty, Respondents shall so certify and may submit a request to the EPA to terminate the CAFO. In the request to terminate the CAFO, Respondents shall demonstrate in writing how Respondents have complied with all of the requirements in the CAFO, which includes providing evidence of meeting the requirements of Sections VI and VII above. Upon receipt of Respondents' request to terminate the CAFO, the EPA will determine if the work has been done within the required timeframes and completed in accordance with the terms of the CAFO before terminating the CAFO.

XII. SEVERABILITY

156. 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.

XIII. EFFECTIVE DATE

157. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

Remainder of Page Intentionally Left Blank

Complainant and Respondents will Each Sign on Separate Pages

The foregoing Consent Agreement In the Matter of **GIANT RESOURCE RECOVERY-SUMTER, INC. AND NOVA MOLECULAR SUMTER, LLC**, Docket No. **RCRA-04-2018-4004(b)**, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:

GIANT RESOURCE RECOVERY-SUMTER, INC.

Stephen P. Holt
Signature

12/22/2020
Date

Printed Name: STEPHEN P. HOLT

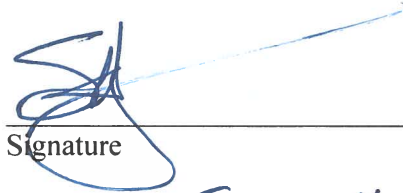
Title: VICE PRESIDENT, EHS

Address: 654 JUDGE ST., HARLEYVILLE, S.C. 29448

The foregoing Consent Agreement In the Matter of **GIANT RESOURCE RECOVERY-SUMTER, INC. AND NOVA MOLECULAR SUMTER, LLC**, Docket No. **RCRA-04-2018-4004(b)**, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:

NOVA MOLECULAR SUMTER, LLC



Signature

DECEMBER 16, 2020
Date

Printed Name: STEVE HOEPFER

Title: CHIEF FINANCIAL OFFICER

Address: 1 PARKER PLACE, SUITE 725, JAYESVILLE, WI 53545

The foregoing Consent Agreement In the Matter of **GIANT RESOURCE RECOVERY-SUMTER, INC. AND NOVA MOLECULAR SUMTER, LLC**, Docket No. **RCRA-04-2018-4004(b)**, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR COMPLAINANT:

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

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)	DOCKET NO.: RCRA-04-2018-4004 (b)
)	
Giant Resource Recovery-Sumter, Inc.)	
755 Industrial Road)	Proceeding Under Section 3008(a) of the
Sumter, South Carolina 29150-6705)	Resource Conservation and Recovery Act,
EPA ID No.: EPA ID # SCD036275626)	42 U.S.C. § 6928(a)
)	
Respondent)	
)	
and)	
)	
Nova Molecular Sumter, LLC)	
749 Industrial Road)	
Sumter, South Carolina 29150-6705)	
EPA ID No.: EPA ID # SCR000778381)	
)	
Respondent)	
_____)	

FINAL ORDER

The Regional Judicial Officer is authorized to ratify this Consent Agreement which memorializes a settlement between Complainant and Respondents. 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 Respondents are hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

BEING AGREED, IT IS SO ORDERED.

Tanya Floyd
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that the foregoing "Consent Agreement" and "Final Order," in the Matter of **GIANT RESOURCE RECOVERY-SUMTER, INC. AND NOVA MOLECULAR SUMTER, LLC**, Docket Number: RCRA-04-2018-4004(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 Respondents: Elizabeth B. Partlow
Law Offices of Elizabeth B. Partlow, LLC
Post Office Box 2444
Columbia, South Carolina 29202
beth@partlowlaw.com

To EPA: Laurie Benton DiGaetano
Senior Enforcement and Compliance Specialist
(404) 562-8948
benton-digaetano.laurie@epa.gov

Joan Redleaf Durbin
Senior Attorney
(404) 562-9544
redleaf-durbin.joan@epa.gov

Quantindra Smith
Environmental Protection Specialist
(404) 562-8564
smith.quantindra@epa.gov

U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

Saundi Wilson
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960