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U.S. EPA REGION 4
HEARING CLERK

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of: **Minasolve, LLC (f/k/a Penn A Kem, LLC)** **3324 Chelsea Avenue** **Memphis, Tennessee 38108** EPA ID No.: TND120603170 Respondent.	Docket No.: **RCRA-04-2026-4002(b)** Proceeding Under Section 3008(a) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6928(a)

CONSENT AGREEMENT

I. NATURE OF ACTION

1. This is an administrative penalty assessment proceeding brought under Section 3008(a) of the Resource Conservation and Recovery Act (RCRA or the Act), 42 U.S.C. § 6928(a), and Sections 22.13(b) and 22.18 of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (Consolidated Rules), as codified at Title 40 of the Code of Federal Regulations (C.F.R.), Part 22.

2. This Consent Agreement and the attached Final Order shall collectively be referred to as the CAFO.

3. Having found that settlement is consistent with the provisions and objectives of the Act and applicable regulations, the Parties have agreed to settle this action pursuant to 40 C.F.R. § 22.18 and consent to the entry of this CAFO without the Respondent's admission of violation or adjudication of any issues of law or fact herein.

II. PARTIES

4. Complainant is the Director, Enforcement and Compliance Assurance Division, United States Environmental Protection Agency (EPA) Region 4, who has been delegated the authority on behalf of the Administrator of the EPA to enter into this CAFO pursuant to 40 C.F.R. Part 22 and Section 3008(a) of the Act.

5. The Respondent is Minasolve, LLC, formerly known as Penn A Kem, LLC, a company doing business in the State of Tennessee. This proceeding pertains to the Respondent's facility located at 3324 Chelsea Avenue, Memphis, Tennessee 38108 (Facility).

III. GOVERNING LAW

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the State of Tennessee (State) has received final authorization to implement a hazardous waste program in lieu of the federal program set forth in RCRA. The requirements of the authorized State program are found in the Tennessee Hazardous Waste Management Act of 1977 (THWMA), Tenn. Code Ann. §§ 68-212-101 – 68-212-121 [Subtitle C of RCRA, 42 U.S.C. §§ 6921 – 6939g], and Chapter 0400-12-01 of the Rules and Regulations of the State of Tennessee (Tenn. Comp. R. & Regs.) [40 C.F.R. Parts 260 through 270, 273, and 279].

7. Pursuant to Section 3006(g) of RCRA, 42 U.S.C. § 6926(g), the requirements established by the Hazardous and Solid Waste Amendments of 1984 (HSWA), Pub. L. 98-616, are immediately effective in all states regardless of their authorization status and are implemented by the EPA until a state is granted final authorization with respect to those requirements. The State has received final authorization for certain portions of HSWA, including those recited herein.

8. Although the EPA has granted the State authority to enforce its own hazardous waste program, the EPA retains jurisdiction and authority to initiate an independent enforcement action pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2). This authority is exercised by the EPA in the manner set forth in the Memorandum of Agreement between the EPA and the State.

9. As the State's authorized hazardous waste program operates in lieu of the federal RCRA program, the citations for the violations of those authorized provisions alleged herein will be to the authorized State program; however, for ease of reference, the federal citations will follow in brackets.

10. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), Complainant has given notice of this action to the State before issuance of this CAFO.

11. Section 68-212-107(d) of the THWMA, Tenn. Code Ann. § 68-212-107(d) [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 Tenn. Comp. R. & Regs. 0400-12-01-.03 [40 C.F.R. Part 262].

12. Section 68-212-108 of the THWMA, Tenn. Code Ann. § 68-212-108 [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 Tenn. Comp. R. & Regs. 0400-12-01-.06 (permitted) and Tenn. Comp. R. & Regs. 0400-12-01-.05 (interim status)] [40 C.F.R. Parts 264 (permitted) and 265 (interim status)].

13. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10], a "facility" includes all contiguous land, and structures, other appurtenances, and improvements on the

land, used for treating, storing, or disposing of hazardous waste, or for managing hazardous secondary materials prior to reclamation.

14. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10], a "person" includes an individual, trust, firm, joint stock company, corporation, partnership and association.

15. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [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."

16. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [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 Tenn. Comp. R. & Regs. 0400-12-01-.02(1) [40 C.F.R. Part 261], or whose act first causes a hazardous waste to become subject to regulation.

17. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10], a "large quantity generator" (LQG) is a generator who generates greater than or equal to 1,000 kilograms (2,200 pounds) of non-acute hazardous waste in a calendar month.

18. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10], "contingency plan" means a document setting out an organized, planned, and coordinated course of action to be followed in case of a fire, explosion, or release of hazardous waste or hazardous waste constituents which could threaten human health or the environment.

19. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10], "universal waste" means any of the following hazardous wastes that are managed under the universal waste requirements of Tenn. Comp. R. & Regs. 0400-12-01-.12(1)(a)(1) [40 C.F.R. Part 273]: (1) Batteries as described in Tenn. Comp. R. & Regs. 0400-12-01-.12(1)(b) [40 C.F.R. § 273.2]; (2) Pesticides as described in Tenn. Comp. R. & Regs. 0400-12-01-.12(1)(c) [40 C.F.R. § 273.3]; (3) Mercury-containing equipment as described in Tenn. Comp. R. & Regs. 0400-12-01-.12(1)(d) [40 C.F.R. § 273.4]; (4) Lamps as described in Tenn. Comp. R. & Regs. 0400-12-01-.12(1)(e) [40 C.F.R. § 273.5]; and (5) Aerosol cans as described in Tenn. Comp. R. & Regs. 0400-12-01-.12(1)(f) [40 C.F.R. § 273.6].

20. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10], "central accumulation area" means "any on-site hazardous waste accumulation area with hazardous waste accumulating in units subject to either subparagraph (1)(g) of Rule 0400-12-01-.03 [40 C.F.R. § 262.16] (for small quantity generators) or subparagraph (1)(h) of Rule 0400-12-01-.03 40 C.F.R. § 262.17] (for large quantity generators)."

21. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(1)(a)3.(vii) [40 C.F.R. § 261.1(c)(7)], a material is "recycled" if it is used, reused, or reclaimed.

22. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(1)(b)1.(i) [40 C.F.R. § 261.2(a)], a "solid waste" is any discarded material that is not otherwise excluded from the regulations. A

"discarded" material includes any material that is abandoned (e.g., disposed of, burned or incinerated, or accumulated, stored, or treated before or in lieu of those activities), or recycled.

23. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(1)(b)3. [40 C.F.R. § 261.2(c)], materials are solid wastes if they are recycled – or accumulated, stored, or treated before recycling – if they are used in a manner constituting disposal, burned for energy recovery, reclaimed, or accumulated speculatively.

24. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(1)(c) [40 C.F.R. § 261.3], a solid waste is a "hazardous waste" if it meets any of the criteria set forth in Tenn. Comp. R. & Regs. 0400-12-01-.02(1)(c)1.(ii) [40 C.F.R. § 261.3(a)(2)] and is not otherwise excluded from regulation as a hazardous waste by Tenn. Comp. R. & Regs. 0400-12-01-.02(1)(d)2. [40 C.F.R. § 261.4(b)].

25. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(1)(c)1.(ii) and Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(a) [40 C.F.R. §§ 261.3(a)(2)(i) and 261.20], solid wastes that exhibit any of the characteristics identified in Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(b)-(e) [40 C.F.R. §§ 261.21-24] are characteristic hazardous waste and are provided with the EPA Hazardous Waste Numbers D001 through D043.

26. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(a) and Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(b) [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.

27. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.03(1)(f)1. [40 C.F.R. § 262.15(a)], a generator may accumulate as much as 55 gallons of non-acute hazardous waste in containers at or near any point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or without having interim status, as required by Section 68-212-108 of the THWMA, Tenn. Code Ann. § 68-212-108 [Section 3005 of RCRA, 42 U.S.C. § 6925], and without complying with Tenn. Comp. R. & Regs. 0400-12-01-.03(1)(g)2. or Tenn. Comp. R. & Regs. 0400-12-01-.03(1)(h)1. [40 C.F.R. §§ 262.16(b) or 262.17(a)], except as required in Tenn. Comp. R. & Regs. 0400-12-01-.03(1)(f)1.(vii) and (viii) [40 C.F.R. § 262.15(a)(7) and (8)], provided that the generator complies with the satellite accumulation area (SAA) conditions listed in Tenn. Comp. R. & Regs. 0400-12-01-.03(1)(f)1. [40 C.F.R. § 262.15(a)] (hereinafter referred to as the "SAA Permit Exemption").

28. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.03(1)(f)1.(v)(I) [40 C.F.R. § 262.15(a)(5)(i)], which is a condition of the SAA Permit Exemption, a generator is required to mark or label its containers with the words "Hazardous Waste."

29. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.03(1)(f)1.(v)(II) [40 C.F.R. § 262.15(a)(5)(ii)], which is a condition of the SAA Permit Exemption, a generator is required to mark or label its containers with an indication of the hazards of the contents.

30. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.03(1)(h)1.[40 C.F.R. § 262.17(a)], a LQG may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, as required by Section 68-212-108 of the THWMA, Tenn. Code Ann. § 68-212-108 [Section 3005 of RCRA, 42 U.S.C. § 6925], provided that the generator complies with the

conditions listed in Tenn. Comp. R. & Regs. 0400-12-01-.03(1)(h)1. [40 C.F.R. § 262.17(a)] (hereinafter referred to as the "LQG Permit Exemption").

31. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.03(1)(h)1.(i)(V)(i) [40 C.F.R. § 262.17(a)(1)(v)], which is a condition of the LQG Permit Exemption, at least weekly, the LQG must inspect central accumulation areas (CAA) for leaking containers and for deterioration of containers caused by corrosion or other factors. In addition, pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.03(1)(h)1.(i)(V)(ii), an authorized State requirement more stringent than 40 C.F.R. § 262.17(a)(1)(v), the LQG must record inspections in an inspection log or summary.

32. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.03(1)(h)1.(vi) [40 C.F.R. § 262.17(a)(6)], which incorporates Tenn. Comp. R. & Regs. 0400-12-01-.03(12)(c)3. [40 C.F.R. § 262.252(c)], and is a condition of the LQG Permit Exemption, a generator is required to equip areas that generate or accumulate hazardous waste on site with portable fire extinguishers, fire control equipment (including special extinguishing equipment, such as that using foam, inert gas, or dry chemicals), spill control equipment, and decontamination equipment.

33. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.03(1)(h)1.(vi) [40 C.F.R. § 262.17(a)(6)], which incorporates Tenn. Comp. R. & Regs. 0400-12-01-.03(12)(i)(5) [40 C.F.R. § 262.261(e)], and is a condition of the LQG Permit Exemption, the 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.

34. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.03(1)(h)1.(vi) [40 C.F.R. § 262.17(a)(6)], which incorporates Tenn. Comp. R. & Regs. 0400-12-01-.03(12)(j)1. [40 C.F.R. § 262.262(a)], and is a condition of the LQG Permit Exemption, a copy of the contingency plan and all revisions to the plan must be maintained at the facility and the LQG must submit a copy of the contingency plan, quick reference guide and all revisions to all local emergency responders (i.e., police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services). This document may also be submitted to the Local Emergency Planning Committee, as appropriate.

35. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.12(1)(i) [40 C.F.R. § 273.9], "aerosol can" means a non-refillable receptacle containing a gas compressed, liquefied, or dissolved under pressure, the sole purpose of which is to expel a liquid, paste, or powder and fitted with a self-closing release device allowing the contents to be ejected by the gas.

36. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.12(1)(i) [40 C.F.R. § 273.9], "universal waste lamp" is defined as the bulb or tube portion of an electric lighting device. A lamp is specifically designed to produce radiant energy, most often in the ultraviolet, visible, and infrared regions of the electromagnetic spectrum. Examples of common universal waste electric lamps include, but are not limited to, fluorescent, high intensity discharge, neon, mercury vapor, high pressure sodium, and metal halide lamps.

37. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.12(1)(i) [40 C.F.R. § 273.9], a "small quantity handler of universal waste" (SQHUW) is a universal waste handler who accumulates less than 5,000 kilograms of Universal Waste (batteries, pesticides, mercury-containing equipment, or lamps, calculated collectively) at any time.

38. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.12(2)(d)4.(i)(I). [40 C.F.R. § 273.13(d)(1)], a SQHUW must contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps; such containers and packages must remain closed and must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.

39. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.12(2)(e)5. [40 C.F.R. § 273.14(e)], each lamp or a container or package in which such lamps are contained must be labeled or marked clearly with one of the following phrases: "Universal Waste—Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)."

40. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.12(2)(f)1. [40 C.F.R. § 273.15(a)], a SQHUW may accumulate universal waste for no longer than one year from the date the universal waste is generated, or received from another handler.

41. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.12(2)(f)3. [40 C.F.R. § 273.15(c)], a SQHUW who accumulates universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

42. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.03(5)(b)1., an authorized State requirement that is more stringent than the federal biennial reporting requirement found in 40 C.F.R. § 262.41, a generator who is a large or small quantity generator for at least one month of the calendar year who ships any hazardous waste off-site to a treatment, storage, or disposal facility within the United States must complete and submit an annual report to the Tennessee Department of Environment and Conservation (TDEC) Commissioner by March 1 for the preceding calendar year. Such report must be submitted on forms provided by the Commissioner, and the form must be completed according to the instructions accompanying it. The report must include, but shall not necessarily be limited to, the information listed in Tenn. Comp. R. & Regs. 0400-12-01-.03(5)(b)1.(i-vi).

IV. FINDINGS OF FACTS

43. The Respondent owns and operates a facility which manufactures intermediates and solvents for various markets, including pharmaceuticals, rubber, and agriculture.

44. The Respondent generates 1,000 kilograms or more of hazardous waste in a calendar month. Respondent generates D001 hazardous waste, among others, and universal waste at its Facility.

45. The Respondent has operated its Facility as an LQG and a SQHUW at all times relevant to this CAFO.

46. On April 9, 2024, the EPA and TDEC conducted a RCRA compliance evaluation inspection (CEI) at the Facility. On June 26, 2024, the EPA mailed the Respondent an Opportunity to Show Cause Letter (Show Cause Letter) and a CEI Report documenting the EPA's inspection findings.

47. During the CEI, the inspectors observed one closed 1,000 milliliter (mL) hazardous waste (D001) container of laboratory waste from an HPLC machine in the Quality Control (QC) Laboratory SAA that was marked with an indication of the hazards of the contents (flammable) but was not labeled with the words "Hazardous Waste."

48. During the CEI, the inspectors observed a closed 1,800 mL hazardous waste (D001) container in the R&D Laboratory SAA that was labeled with the words "Hazardous Waste" but was not marked with an indication of the hazards of the contents.

49. During the CEI, the Respondent did not provide documentation of weekly inspections for the Railcar CAA.

50. During the CEI, the Respondent did not have the required emergency equipment (e.g., fire and spill control equipment) in the vicinity of the areas where hazardous waste was generated or accumulating (i.e., near the QC Laboratory CAA and the Main CAA).

51. During the CEI, the inspectors observed that the contingency plan did not include a complete up-to-date list of all required emergency equipment at the Facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems, and decontamination equipment), and did not provide the location and a physical description of each item on the list or a brief outline of each item's capabilities.

52. During the CEI, the Respondent was unable to provide records to demonstrate that the amended January 2024 contingency plan and quick reference guide had been submitted to the local emergency responders.

53. During the CEI, the inspectors observed two cardboard boxes (4-ft and 8-ft) of universal waste lamps in the Digester Building that were not closed.

54. During the CEI, the inspectors observed one 8-ft container of universal waste lamps that were not labeled with the words "Universal Waste—Lamps," or "Waste Lamps," or "Used Lamps" in the Digester Building.

55. During the CEI, the inspectors observed one 8-ft cardboard box of universal waste lamps in the Digester Building with no accumulation start date, and the Respondent was unable to demonstrate how long the universal waste had been accumulating from the date it became a waste.

56. At the time of the CEI, the inspectors observed one 55-gallon container of universal waste aerosol cans outside of the Fine Chemicals Building bearing an accumulation start date of January 13, 2022.

57. At the time of the CEI, the inspectors reviewed the Respondent's annual reports and identified inaccurate and incomplete entries relating to waste coding, disposition, and hazard criteria for three hazardous waste streams reported in the 2023 annual report.

58. During the CEI, the inspectors observed hundreds of containers stored behind Building 85, designated by the Respondent as "work in process" (WIP). The WIP containers were stored outside exposed to the elements; some of the WIP containers were in poor condition (i.e., crushed, bulging, corroding) and were missing labels to identify or date the contents. The Respondent represented that the WIP was being accumulated for recycling or reclamation back into a manufacturing process. Respondent did not provide information during the CEI sufficient to demonstrate that the WIP could be used directly in production of products or in support of production operations. Following the CEI, the Respondent reevaluated the WIP containers and shipped 85,080 pounds of WIP containers offsite for management as hazardous waste.

59. On July 10, 2024, the Respondent provided the EPA a response to the Show Cause Letter and CEI Report.

V. ALLEGED VIOLATIONS

60. The Respondent is a "person" as defined in Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10].

61. The Respondent is the "operator" of a "facility" as those terms are defined in Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10].

62. The Respondent is a "generator" of "solid waste" and "hazardous waste" as those terms are defined in Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10], Tenn. Comp. R. & Regs. 0400-12-01-.02(1)(b) [40 C.F.R. § 261.2], and Tenn. Comp. R. & Regs. 0400-12-01-.02(1)(c) [40 C.F.R. § 261.3]. Based on the available records, Respondent is an LQG and a SQHUW.

63. The Respondent failed to label one container of hazardous waste in the QC Laboratory SAA with the words "Hazardous Waste." The EPA therefore alleges the Respondent violated Section 68-212-108 of the THWMA, Tenn. Code Ann. § 68-212-108 [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because the Respondent failed to mark or label its containers with the words "Hazardous Waste" as required by Tenn. Comp. R. & Regs. 0400-12-01-.03(1)(f)1.(v)(I) [40 C.F.R. § 262.15(a)(5)(i)], which is a condition of the SAA Permit Exemption.

64. The Respondent failed to mark or label one container of hazardous waste in the R&D Laboratory SAA with an indication of the hazard of the contents. The EPA therefore alleges the Respondent violated Section 68-212-108 of the THWMA, Tenn. Code Ann. § 68-212-108 [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because the Respondent failed to mark or label its containers with an indication of the hazards of the contents as required by Tenn. Comp. R. & Regs. 0400-12-01-.03(1)(f)1.(v)(II) [40 C.F.R. § 262.15(a)(5)(ii)], which is a condition of the SAA Permit Exemption.

65. The Respondent failed to record weekly inspections of the Railcar CAA. The EPA therefore alleges the Respondent violated Section 68-212-108 of the THWMA, Tenn. Code Ann. § 68-212-108 [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because the Respondent failed to comply with the container inspection requirements in Tenn. Comp. R. & Regs. 0400-12-01-.03(1)(h)1.(i)(V)(ii), an authorized State requirement that is more stringent than 40 C.F.R. § 262.17(a)(1)(v), which is a condition of the LQG Permit Exemption.

66. The Respondent failed to equip areas where hazardous waste was generated or accumulated, including the QC Laboratory CAA and Main CAA, with required emergency equipment (fire and spill control equipment). The EPA therefore alleges the Respondent violated Section 68-212-108 of the THWMA, Tenn. Code Ann. § 68-212-108 [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to comply with the emergency equipment requirements in Tenn. Comp. R. & Regs. 0400-12-01-.03(12)(c)3. [40 C.F.R. § 262.252(c)], which is a condition of the LQG Permit Exemption set forth in Tenn. Comp. R. & Regs. 0400-12-01-.03(1)(h)1.(vi) [40 C.F.R. § 262.17(a)(6)].

67. The Facility's Contingency Plan did not include a complete and up-to-date list of all required emergency equipment and failed to identify the location and description of each item and its capabilities. The EPA therefore alleges the Respondent violated Section 68-212-108 of the THWMA, Tenn. Code Ann. § 68-212-108 [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because the Respondent failed to comply with the contingency plan requirement in Tenn. Comp. R. & Regs. 0400-12-01-.03(12)(i)(5) [40 C.F.R. § 262.261(e)], which is a condition of the LQG Permit Exemption set forth in Tenn. Comp. R. & Regs. 0400-12-01-.03(1)(h)1.(vi) [40 C.F.R. § 262.17(a)(6)].

68. The Respondent failed to submit a copy of the amended Contingency Plan and Quick Reference Guide to local emergency responders. The EPA therefore alleges that the Respondent violated Section 68-212-108 of the THWMA, Tenn. Code Ann. § 68-212-108 [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because the Respondent failed submit a revised copy of the contingency plan and quick reference guide to local emergency responders, as required by Tenn. Comp. R. & Regs. 0400-12-01-.03(1)(h)1.(vi) [40 C.F.R. § 262.17(a)(6)],, which is a condition of the LQG Permit Exemption set forth in Tenn. Comp. R. & Regs. 0400-12-01-.03(12)(j)1. [40 C.F.R. § 262.262(a)].

69. The Respondent failed to keep two containers (approx. 4-ft and 8-ft) of universal waste lamps closed in the Digester Building. The EPA therefore alleges that the Respondent violated Tenn. Comp. R. & Regs. 0400-12-01-.12(2)(d)4.(i)(I). [40 C.F.R § 273.13(d)(1)], by failing to contain universal waste lamps in a closed container to prevent releases to the environment.

70. The Respondent failed to label an 8-ft container of universal waste lamps in the Digester Building with the words "Universal Waste—Lamps," or "Waste Lamps," or "Used Lamps." The EPA therefore alleges that the Respondent violated Tenn. Comp. R. & Regs. 0400-12-01-.12(2)(e)5. [40 C.F.R. § 273.14(e)], by failing to label or mark each lamp or container of lamps clearly with one of the following phrases: "Universal Waste-Lamp(s),"or "Waste Lamp(s)," or "Used Lamps."

71. The Respondent accumulated one 55-gallon container of universal waste aerosol cans outside the Fine Chemicals Building for longer than one year. The EPA therefore alleges that the Respondent violated Tenn. Comp. R. & Regs. 0400-12-01-.12(2)(f)1. [40 C.F.R. § 273.15(a)], by failing to accumulate universal waste for no longer than one year from the date the universal waste is generated.

72. The Respondent failed to demonstrate the length of time that an approximately 8-ft container of universal waste lamps in the Digester Building had been accumulated from the date it became a waste or was received. The EPA therefore alleges that the Respondent violated Tenn. Comp. R. & Regs. 0400-12-01-.12(2)(f)1. [40 C.F.R. § 273.15(c)], by failing to demonstrate the length of time that the Facility's universal waste had been accumulated from the date that the universal waste became a waste or was received.

73. The Respondent failed to submit an accurate and complete 2023 annual report. The EPA therefore alleges that the Respondent violated Tenn. Comp. R. & Regs. 0400-12-01-.03(5)(b)1., an authorized State requirement that is more stringent than the federal biennial reporting requirement found in 40 C.F.R. § 262.41, by failing to submit an accurate and complete annual report to the Commissioner.

74. The EPA alleges that the Respondent accumulated hazardous waste behind Building 85 for more than 90 days without a permit or interim status. The EPA therefore alleges the Respondent violated Section 68-212-108 of the THWMA, Tenn. Code Ann. § 68-212-108 [Section 3005 of RCRA, 42 U.S.C. § 6925], because the Respondent accumulated hazardous waste on-site for more than 90 days without a permit or without having interim status, as required by Tenn. Comp. R. & Regs. 0400-12-01-.03(1)(h)1. [40 C.F.R. § 262.17(a)].

VI. STIPULATIONS

75. The issuance of this CAFO simultaneously commences and concludes this proceeding. 40 C.F.R. § 22.13(b).

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

    a. admits that the EPA has jurisdiction over the subject matter alleged in this CAFO;

    b. neither admits nor denies the factual allegations set forth in Section IV (Findings of Facts) of this CAFO;

    c. consents to the assessment of a civil penalty as stated below;

    d. consents to the conditions specified in this CAFO;

    e. waives any right to contest the allegations set forth in Section V (Alleged Violations) of this CAFO; and

    f. waives its rights to appeal the Final Order accompanying this CAFO.

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

a. agrees that this CAFO states a claim upon which relief may be granted against the Respondent;

b. acknowledges that this CAFO constitutes an enforcement action for purposes of considering the Respondent's compliance history in any subsequent enforcement actions;

c. waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that the Respondent may have with respect to any issue of fact or law set forth in this CAFO, including any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706;

d. waives any rights it may possess at law or in equity to challenge the authority of the EPA to bring a civil action in a United States District Court to compel compliance with the CAFO, and to seek an additional penalty for such noncompliance, and agrees that federal law shall govern in any such civil action;

e. waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to EPA officials where the purpose of such discussion, memorandum, or communication is to persuade such official to accept and issue this CAFO;

f. waives any rights or defenses that the Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the Final Order accompanying this Consent Agreement; and

g. agrees to comply with the terms of this CAFO.

78. By executing this CAFO, the Respondent certifies to the best of its knowledge that all violations alleged herein, which are neither admitted nor denied, have been corrected. Within 180 days of receipt of the executed copy of this CAFO, the Respondent shall submit to the EPA a certification signed by a duly authorized representative stating that the Facility is in compliance with all relevant requirements of the THWMA and its implementing regulations**,** and the Act and its implementing regulations. This certification shall be as follows:

> "I certify under penalty of law, to the best of my knowledge and belief, that the Facility is in compliance with the THWMA and its implementing regulations, and the Act and its implementing regulations. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

79. In accordance with 40 C.F.R. § 22.5, the individuals named in the Certificate of Service are authorized to receive service related to this proceeding and the Parties agree to receive service by electronic means.

VII. TERMS OF PAYMENT

80. Based on the Respondent's substantiated ability to pay claim, the Respondent consents to the payment of a civil penalty, which was calculated in accordance with the Act, in the amount of **ONE HUNDRED THOUSAND DOLLARS ($100,000.00)**, which is to be paid within thirty (30) days of the Effective Date of this CAFO.

81. The Respondent shall pay the civil penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the following EPA website: https://www.epa.gov/financial/makepayment. For additional instructions, see: https://www.epa.gov/financial/additional-instructions-making-payments-epa. In addition, the Respondent shall identify every payment with the Respondent's name and the docket number of this CAFO, Docket No. RCRA-04-2026-4002(b).

82. The Respondent shall send proof of payment, within twenty-four (24) hours of payment of the civil penalty, to:

Regional Hearing Clerk
R4_Regional_Hearing_Clerk@epa.gov

and

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

and

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

83. "Proof of payment" means, as applicable, confirmation of credit card or debit card payment, confirmation of wire or ACH transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the Respondent's name and Docket No. RCRA-04-2026-4002(b).

84. Interest, Charges, and Penalties on Late Payments. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. §§ 13.11 and 13.12, if the Respondent fails to timely pay the full amount of the civil penalty per this CAFO, the EPA is authorized to recover, in addition to the amount of the unpaid civil penalty, the following amounts:

a. Interest. Interest will begin to accrue on the civil penalty from the Effective Date of this CAFO. If the civil penalty is paid in full within thirty (30) days of the Effective Date, interest accrued is waived. However, if the civil penalty is not paid in full within thirty (30) days, interest will continue to accrue until any unpaid portion of the civil penalty, as

well as any accrued interest, penalties, and other charges are paid in full. To protect the interests of the United States, the rate of interest is set at the IRS standard corporate underpayment rate, as any lower rate would fail to provide Respondent adequate incentive for timely payment.

b. Handling Charges. The Respondent will be assessed a monthly charge to cover the EPA's costs of processing and handling overdue debts. If the Respondent fails to pay the civil penalty in accordance with this CAFO, the EPA will assess a charge to cover the costs of handling any unpaid amounts for the first thirty (30) day period after the Effective Date. Additional handling charges will be assessed every thirty (30) days, or any portion thereof, until the unpaid portion of the civil penalty as well as any accrued interest, penalties, and other charges are paid in full.

c. Late Payment Penalty. A late payment penalty of six percent (6%) per annum will be assessed monthly on all debts, including any unpaid portion of the civil penalty, interest, penalties, and other charges, that remain delinquent more than ninety (90) days. Any such amounts will accrue from the date of delinquency.

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

86. Late Penalty Actions. In addition to the amounts described in the preceding Paragraphs, if the Respondent fails to timely pay any portion of the civil penalty, interest, or other charges and penalties per this CAFO, the EPA may take additional actions. Such actions the EPA may take include, but are not limited to, the following:

a. refer the debt to a credit reporting agency or a collection agency (*see* 40 C.F.R. §§ 13.13 and 13.14);

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

c. suspend or revoke the Respondent's licenses or other privileges, or suspend or disqualify the Respondent from doing business with the EPA or engaging in programs the EPA sponsors or funds (*see* 40 C.F.R. § 13.17); and/or

d. refer the debt to the Department of Justice as provided in 40 C.F.R. § 13.33. In any such judicial action, the validity, amount, and appropriateness of the penalty and of this CAFO shall not be subject to review.

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

88. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, the EPA is required to send a completed Form 1098-F ("Fines, Penalties, and Other Amounts") to the Internal Revenue Service (IRS) annually with respect to any court order and settlement agreement (including administrative settlements), that requires a payor to pay an aggregate amount that the EPA reasonably believes will be equal to, or in excess of, $50,000 for the payor's violation of any law or the investigation or inquiry into the payor's potential violation of any law, including amounts paid for "restitution or remediation of property" or to come "into compliance with a law." The EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (for example, a copy of Form 1098-F). In order to provide the EPA with sufficient information to enable it to fulfill these obligations, the EPA herein requires, and the Respondent herein agrees, that:

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

b. The Respondent shall therein certify that its completed Form W-9 includes Respondent's correct Tax Identification Number (TIN) or that the Respondent has applied and is waiting for issuance of a TIN;

c. The Respondent shall email its completed Form W-9 to EPA's Cincinnati Finance Center Region 4 contact, Jessica Henderson (Henderson.Jessica@epa.gov), on or before the date that the Respondent's initial penalty payment is due, pursuant to Paragraph 80 of this CAFO, and the EPA recommends encrypting Form W-9 email correspondence; and

d. In the event that the Respondent has certified in its completed Form W-9 that it has applied for a TIN and that TIN has not been issued to the Respondent by the date that its initial penalty payment is due, then the Respondent, using the same email address identified in the preceding sub-paragraph, shall further:

    i. notify the EPA's Cincinnati Finance Center of this fact, via email, by the date that the Respondent's initial penalty payment is due; and
    ii. provide the EPA's Cincinnati Finance Center with Respondent's TIN, via email, within five (5) days of Respondent's issuance and receipt of the TIN.

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

VIII. EFFECT OF CAFO

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

91. 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).

92. Any violation of this CAFO may result in a civil penalty for each day of continued noncompliance with the CAFO and/or the suspension or revocation of any federal or state permit issued to the violator, as provided in Section 3008(c) of the Act, 42 U.S.C § 6928(c).

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

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

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

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

97. Any change in the legal status of the Respondent, or change in ownership, partnership, corporate or legal status relating to the Facility, will not in any way alter the Respondent's obligations and responsibilities under this CAFO.

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

99. By signing this Consent Agreement, the Complainant and the undersigned representative of the Respondent each certify that each person is fully authorized to execute and enter into the terms and conditions of this CAFO and has the legal capacity to bind the Party represented by that person to this CAFO.

100. 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.

101. By signing this Consent Agreement, the Respondent certifies that the information it has supplied concerning this matter was at the time of submission, and continues to be, true, accurate, and complete for each such submission, response, and statement. The Respondent acknowledges that there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.

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

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

104. 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**

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

[Remainder of Page Intentionally Left Blank

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

The foregoing Consent Agreement *In the Matter* of Minasolve, LLC, Docket No. RCRA-04-2026-4002(b), is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:

Frederic Marmousez
Frederic Marmousez (Sep 14, 2026 16:57:07 GMT+2)

_____ 09/14/26

Signature Date

Printed Name: Frédéric Marmousez

Title: Director Minasolve LLC

Address: 3324 Chelsea Road, Memphis, TN 38108

The foregoing Consent Agreement *In the Matter of Minasolve*, LLC, Docket No. RCRA-04-2026-4002(b), is Hereby Stipulated, Agreed, and Approved for Entry.

FOR COMPLAINANT:

KERIEMA NEWMAN

Digitally signed by KERIEMA NEWMAN
Date: 2026.09.17 10:54:15 -04'00'

_____

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

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of: Minasolve, LLC (f/k/a Penn a Kem, LLC) 3324 Chelsea Avenue, Memphis, Tennessee, 38108) EPA ID No.: TND120603170 Respondent.	Docket No. RCRA-04-2026-4002(b) Proceeding Under Section 3008(a) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6928(a)

FINAL ORDER

The Regional Judicial Officer is authorized to ratify this Consent Agreement which memorializes a settlement between Complainant and the Respondent. 40 C.F.R. §§ 22.4(b) and 22.18(b)(3). The foregoing Consent Agreement is, therefore, hereby approved, ratified, and incorporated by reference into this Final Order in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22.

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

BEING AGREED, IT IS SO ORDERED.

MICHELE WETHERINGTON Digitally signed by MICHELE WETHERINGTON Date: 2026.09.21 15:21:22 -04'00'

_____

Regional Judicial Officer

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order, In the Matter of Minasolve, LLC, Docket No. RCRA-04-2026-4002(b), were filed and copies of the same were emailed to the Parties as indicated below.

Via email to all Parties at the following email addresses:

Respondent:

Ed Callaway
Attorney
Holland & Knight, LLP
ed.callaway@hklaw.com
1-615-850-8470

EPA:

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

Roberto X. Buso
Associate Regional Counsel
buso.roberto@epa.gov
404-562-8530

SHANNON RICHARDSON

Digitally signed by SHANNON RICHARDSON
Date: 2026.09.22 10:21:22 -04'00'

Regional Hearing Clerk
R4_Regional_Hearing_Clerk@epa.gov