

May 28, 2026

VIA REGISTERED MAIL – RETURN RECEIPT REQUESTED

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Georgetown, South Carolina 29440

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Micah Mallace
President & Chief Executive Officer
South Carolina Ports Authority
200 Ports Authority Drive
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**Re: Charleston Waterkeeper’s Notice of Violations and Intent to File Citizen Suit
Under the Clean Water Act and Resource Conservation and Recovery Act**

Dear Mr. Johnson; Mr. Cook; Mr. Raymond; and Mr. Mallace:

This letter is sent to inform Agru America, Inc./Agru America Charleston, LLC (“Agru”), Frontier Logistics, LP (“Frontier”), Ray-Mont Logistics, Inc./ Ray-Mont Logistics Charleston Inc. (“Ray-Mont”), and the South Carolina Ports Authority (“SC Ports”), that Charleston Waterkeeper has identified significant and ongoing violations of the Clean Water Act and Resource Conservation and Recovery Act (“RCRA”) at industrial facilities operating along the edge of the Cooper River and Charleston Harbor—specifically Agru’s facility located at 1401 Greenleaf Street, Charleston, SC 29405, and Frontier and Ray-Mont’s facilities operating out of SC Port’s North Charleston Terminal at 1000 Remount Road, North Charleston, SC 29406 (together, the “Facilities”). These violations stem from the ongoing discharge and release of substantial numbers of plastic pellets, known as “nurdles,” into the environment. This unlawful pollution is causing significant harm to the Charleston Harbor, its surrounding waterways, and to the mission and members of Charleston Waterkeeper.

Charleston Waterkeeper hereby notifies you that, if these violations are not resolved within 60 days from the date of this letter pursuant to the Clean Water Act and RCRA “open dumping” violations, and 90 days from the date of this letter pursuant to the RCRA imminent and substantial endangerment violations, Charleston Waterkeeper is prepared to file a citizen suit in the United States District Court for the District of South Carolina pursuant to Section 505 of the Clean Water Act, 33 U.S.C. § 1365(a)(1), and Section 7002 of RCRA, 42 U.S.C. § 6972(a)(1)(A)–(B). The suit will seek declaratory and injunctive relief requiring the dischargers to abate their unlawful pollution, pay litigation costs and attorneys’ fees authorized by statute, pay civil penalties of up to

\$68,445 and \$93,058 per day for each of the Clean Water Act and RCRA violations, respectively, and may seek additional appropriate relief. Thank you for your prompt attention to these matters.

I. THE FACILITIES

A. Agru

Agru operates an industrial facility located at 1401 Greenleaf Street, Charleston, SC 29405. The Agru facility sits on the banks of the Cooper River and an unnamed stream that feeds into Charleston Harbor.

The Agru facility manufactures large diameter plastic pipes using tiny plastic pellets—also known as “nurdles”—which are fed into a machine that melts and forms the nurdles into piping. Nurdles are transported into the Agru facility where they are stored in open-air silos, handled, and processed into pipes onsite. Agru conducts these activities immediately adjacent to tidal marshes and the Cooper River. A pond on the southern edge of the site collects and discharges stormwater into adjacent marshes and the Cooper River.

A site inspection by the South Carolina Department of Natural Resources in 2023 documented nurdles “scattered across” Agru’s open-air storage yard, with the agency noting significant “concerns regarding the release of plastic pellets into the adjacent aquatic environment.” Ex. 1 at 3–4.

B. The North Charleston Terminal

Frontier and Ray-Mont are logistics companies that each operate a transloading facility at the 201-acre North Charleston Terminal, which is owned by SC Ports and located at 1000 Remount Road, North Charleston, SC 29406. SC Ports identified both Ray-Mont and Frontier as the only companies who handle nurdles on Port-owned property. Ex. 2.

The North Charleston Terminal sits on the banks of the Cooper River, shortly upriver of the Charleston Harbor. At the North Charleston Terminal, containers are loaded on and off ships and transferred to and from other modes of land-based transportation. This Terminal handles nearly one-quarter of the Port’s total container volume.¹ SC Ports has a Standard Industrial Classification (“SIC”) Code of 4491, or Marine Cargo Handling. This means that SC Ports is engaged in operating waterfront terminals and transferring cargo between ships and other modes of transportation. According to the SC Ports website, part of its operations out of the North Charleston Terminal include “a team of waterfront professionals that seamlessly move your containers on and off ships.” SC Ports thus provides staff and equipment for operators loading and unloading cargo at the North Charleston Terminal.

Frontier and Ray-Mont transload nurdles at the North Charleston Terminal, a process which involves transferring nurdles from one mode of transportation to another (e.g., from trucks

¹ *North Charleston Terminal*, S.C. PORTS, <https://scspa.com/facilities/north-charleston-terminal/> (last visited May 26, 2026).

into silos or boxes, and onto boats, etc.). Transloading often involves siphoning, handling, packaging, unpackaging, repackaging, transferring, and/or storing the tiny pellets across multiple containers, vehicles, and conveyances.

Transloading creates a significant risk of pellet spills and releases into the environment—risks that are particularly heightened when transloading occurs at the edge of a waterbody. For example, in 2019 Charleston Waterkeeper sued Frontier for unlawful nurdle pollution from its former waterfront facility at Union Pier in downtown Charleston, which was releasing nurdles directly into the Cooper River that were washing up *en masse* on Sullivan’s Island Beach. This lawsuit resulted in a settlement with Charleston Waterkeeper, and Frontier moved its Union Pier operations to a new inland purpose-built facility in North Charleston with better controls on pellet releases.

Despite this settlement and its new facility, Frontier appears to be again handling and packaging nurdles in open air and over water, now at the North Charleston Terminal. Ray-Mont is doing the same.

II. THE COOPER RIVER AND CHARLESTON HARBOR

All of these Facilities—Agru and the Ray-Mont and Frontier transloading operations at the SC Port’s North Charleston Terminal—are located on or directly adjacent to the Cooper River, which drains into Charleston Harbor.

Charleston Harbor is a state-designated wildlife sanctuary, S.C. Code Ann. § 50-11-980, and is home to hundreds of species, many of which are listed as threatened or endangered. These include several species of sea turtle (Green, Kemp’s ridley, Loggerhead, Hawksbill and Leatherback), two federally endangered species of sturgeon (Shortnose and Atlantic sturgeon), and marine mammals, such as Bottlenose dolphins and the federally threatened West Indian Manatee. Two species of whale (North Atlantic and Humpback) live in offshore waters just off the coast of South Carolina, and the entire coast of South Carolina is federally-protected critical habitat under the Endangered Species Act for the North Atlantic right whale, 50 C.F.R. § 266.203(b).

There are also numerous species of birds, which is a taxonomic group known to ingest plastic, including nurdles, found in the Harbor.² Charleston Harbor is considered Essential Fish Habitat by the National Oceanic and Atmospheric Administration.³ It supports significant recreational and commercial fishery resources, including penaeid shrimp, blue crabs, Atlantic croaker, bay anchovy, Atlantic menhaden, spotted hake, snapper and mackerel, among many others. Its diverse habitats—including wetlands, oyster reefs, creeks, mudflats, and open water—

² Chris Wilcox et al., *Threat of Plastic Pollution to Seabirds Is Global, Pervasive, and Increasing*, 112(38) PROC. OF THE NAT’L ACAD. OF SCI. 11,899, 11,899 (2015).

³ See NOAA Fisheries, *Essential Fish Habitat Mapper, South Atlantic Map*, <https://www.habitat.noaa.gov/apps/efhmapper/?page=South-Atlantic-Map>.

support many important species that make up the Charleston Harbor food web. These rich fishery resources generate many millions of dollars annually for the local economy.

Charleston Harbor and the Cooper River are also popular recreational areas for boaters, kayakers, and fishermen. A National Historical Park protects several sites within or adjacent to the Harbor, such as Fort Sumter and Fort Moultrie. Three developed barrier islands—Sullivan’s Island, Isle of Palms, and Folly Beach—sit at the mouth of the harbor along the Atlantic Ocean. These islands together boast roughly fifteen miles of pristine beaches and attract tens of thousands of beachgoers each day during peak season.

III. THE HARMS OF PLASTIC PELLET POLLUTION

As reflected in scientific literature, nurdle (also called plastic pellet) pollution poses significant threats to aquatic life and people. Due to their durability and low density, nurdles are readily dispersed by water and wind and easily released into the environment if not carefully controlled. Nurdles can escape industrial sites via diffuse or channelized stormwater runoff, wind, hosing or blowing by employees, and tracking by people or vehicles, among many other methods of release.

When discharged into the environment, nurdles do not decompose and instead break up and multiply into smaller microplastic particles. A primary threat to wildlife from nurdle pollution is through ingestion of nurdles or their microplastic remnants. Studies have extensively documented plastics inside mammals, birds, and fish. When an animal ingests nurdles, it is potentially exposed to the “cocktail of contaminants” associated with this pollution, both from the chemical ingredients in the nurdles themselves and from the heavy metals, organic pollutants (such as DDT and PCBs), and other toxins that “sorb” to nurdles from surrounding waters.⁴

Studies show concerning levels of multiple toxic pollutants in the water, fish, and sediments in the Charleston Harbor. This makes nurdle pollution by Agru, Ray-Mont, Frontier, and SC Ports even more dangerous as nurdles will likely sorb the significant chemical contamination in the Cooper River, Charleston Harbor, and its tributaries and pass it along to organisms that ingest the plastic pellets.⁵

⁴ E.g., Chelsea M. Rochman, *The Complex Mixture, Fate and Toxicity of Chemicals Associated with Plastic Debris in the Marine Environment*, MARINE ANTHROPOGENIC LITTER 117, 119 (2015); U.N. ENV’T PROGRAMME, UNEP FRONTIER 2016: EMERGING ISSUES OF ENVIRONMENTAL CONCERN 38 (2016); Chelsea M. Rochman et al., *Ingested Plastic Transfers Hazardous Chemicals to Fish and Induces Hepatic Stress*, 3 SCI. REPS. 3 (2013); Chelsea M. Rochman et al., *Classify Plastic Waste as Hazardous*, 494 NATURE 169 (2013).

⁵ Patricia A. Fair et al., *Contaminant Blubber Burdens in Atlantic Bottlenose Dolphins (*Tursiops Truncatus*) from Two Southeastern US Estuarine Areas: Concentrations and Patterns Of PCBs, Pesticides, PBDEs, PFCs, and PAHs*, 408(7) SCI. OF THE TOTAL ENV’T 1577 (2010); Patricia A. Fair et al., *Persistent Organic Pollutants in Fish From Charleston Harbor and Tributaries, South Carolina*,

Plastics like nurdles can erode into smaller microplastics in as little as eight weeks in environments like the Charleston Harbor.⁶ Microplastic contamination in the wildlife that live and feed in the Cooper River and Charleston Harbor ecosystems is well documented, including in several studies that report microplastics in local zooplankton⁷ and fish.⁸ In fish, the frequency of contamination was notably high, with microplastics detected in 99% of fish sampled.

Ingesting nurdles and microplastics causes direct physical harms to wildlife, as microplastics can cause lacerations, starvation, and death, and may translocate through cell membranes into tissue and impair the circulatory, lymphatic, respiratory, and/or other systems in animals.⁹ Microplastics and the cocktail of associated chemicals are bioaccumulative, meaning that these substances build up in the bodies of exposed animals faster than they can be excreted.¹⁰ Studies have shown that exposure to microplastics “can degrade the structure and functions of ecosystems. Key physiological processes of organisms (e.g., cell-division, immunity, secretion of hormones) can be disrupted, causing disease and reducing the ability to escape predators and reproduce.”¹¹

United States: A Risk Assessment, 167 ENV'T RSCH.598 (2018); Magali Houde et al., *Polyfluoroalkyl Compounds in Free-Ranging Bottlenose Dolphins (*Tursiops truncatus*) from the Gulf of Mexico and the Atlantic Ocean*, 39(17) ENV'T SCI. & TECH., 6591 (2005).

⁶ John E. Weinstein et al., *From Macroplastic to Microplastic: Degradation of High-Density Polyethylene, Polypropylene, and Polystyrene in A Salt Marsh Habitat*, 35(7) ENV'T TOXICOLOGY AND CHEMISTRY, 1632 (2016).

⁷ Tokea G. Payton et al., *Microplastic Exposure to Zooplankton at Tidal Fronts in Charleston Harbor, SC USA*, 232 ESTUARINE, COASTAL AND SHELF SCIENCE 106,510 (2020).

⁸ Brittney W. Parker et al., *Microplastic and Tire Wear Particle Occurrence in Fishes from An Urban Estuary: Influence of Feeding Characteristics on Exposure Risk*, 160 MARINE POLLUTION BULL. (2020).

⁹ E.g., Chelsea M. Rochman, *Plastics and Priority Pollutants: A Multiple Stressor in Aquatic Habitats*, 47 ENV.T SCI. & TECH. 6, 2439 (2013); Chelsea M. Rochman et al., *Long-Term Field Measurement of Sorption of Organic Contaminants to Five Types of Plastic Pellets: Implications for Plastic Marine Debris*, 47(3) ENV'T SCI. & TECH 1646 (2013); Stephanie L. Wright et al., *Microplastic Ingestion Decreases Energy Reserves in Marine Worms*, 23(23) CURRENT BIOLOGY R1031 (2013); Dennis Brennecke et al., *Ingested Microplastics (>100 µm) Are Translocated to Organs of the Tropical Fiddler Crab *Uca rapax**, 96(1-2) MARINE POLLUTION BULL. 491 (2015); Mark A. Browne et al., *Ingested Microscopic Plastic Translocates to the Circulatory System of the Mussel, *Mytilus edulis* (L.)*, 42(13) ENV'T SCI. & TECH. 5026 (2008).

¹⁰E.g., Browne et al., *supra* note 10; France Collard et al., *Anthropogenic Particles in the Stomach Contents and Liver of the Freshwater Fish *Squalius cephalus**, 634 SCI. TOTAL ENV'T, 1257 (2018).

¹¹ Rochman (2015), *supra* note 10, at 132–33.

Nurdle pollution has serious impacts on human health as well. An April 2026 announcement by the U.S. Environmental Protection Agency and the U.S. Department of Health and Human Services called microplastics “a growing threat to human health.”¹² Eating fish contaminated with microplastics poses similar chemical and physical risks to people as it does to the fish themselves, particularly due to biomagnification up the food chain.¹³ “Plastic never goes away—it just breaks down into finer and finer particles,” with exposure in humans “suspected to harm reproductive, digestive and respiratory health” and potentially also cause colon and lung cancer and dementia.¹⁴ New studies link microplastic buildup in arteries to a significantly increased risk of heart attacks or strokes.¹⁵ These risks are of particular concern in Charleston Harbor, an area prized for its seafood and dependent on clean water and clean fish for tourism and its local economy.

In addition to the myriad of health risks, plastic pellet pollution also creates observable litter in the environment, harming the aesthetic and recreational enjoyment of the many people who use and enjoy the Cooper River, Charleston Harbor, and the downstream beaches, estuaries, and other waterways.

IV. THE FACILITIES’ NURDLE POLLUTION

Charleston Waterkeeper’s sampling reveals that substantial numbers of nurdles are being discharged into and remain in the Cooper River, Charleston Harbor, and the lands surrounding the Facilities.

For years, Agru, Frontier, Ray-Mont, and SC Ports have been releasing nurdles in substantial quantities into the lands, waters, and wetlands surrounding their Facilities. Since October 2021, Charleston Waterkeeper has collected tens of thousands of nurdles at locations adjacent to and/or immediately downstream from Agru and the North Charleston Terminal. Specifically, Charleston Waterkeeper has routinely collected and observed significant numbers of

¹² News Release, EPA, EPA, HHS Announce Historic Actions to Protect Americans from Microplastics and Safeguard Drinking Water (Apr. 2, 2026), <https://www.epa.gov/newsreleases/epa-hhs-announce-historic-actions-protect-americans-microplastics-and-safeguard>.

¹³ E.g., Maddison Carbery et al., *Trophic Transfer of Microplastics and Mixed Contaminants in the Marine Food Web and Implications for Human Health*, 115 ENV’T INT’L 400 (2018); Samantha H. Campbell et al., *Microplastics in the Gastrointestinal Tracts of Fish and the Water from an Urban Prairie Creek*, 2(1) FACETS 395 (2017).

¹⁴ Katia Savchuk, *Microplastics and Our Health: What the Science Says*, STAN. MED. (Jan. 29, 2025), <https://med.stanford.edu/news/insights/2025/01/microplastics-in-body-polluted-tiny-plastic-fragments.html>; Elif Gecegen et al., *A Novel Risk Factor for Dementia: Chronic Microplastic Exposure*, 16 FRONTIERS IN NEUROLOGY (May 2025), available at <https://pmc.ncbi.nlm.nih.gov/articles/PMC12162254/>.

¹⁵ Julie Corliss, *Microplastics in Arteries Linked to Heart Disease Risk*, HARV. HEALTH (June 1, 2024), <https://www.health.harvard.edu/heart-health/microplastics-in-arteries-linked-to-heart-disease-risk>.

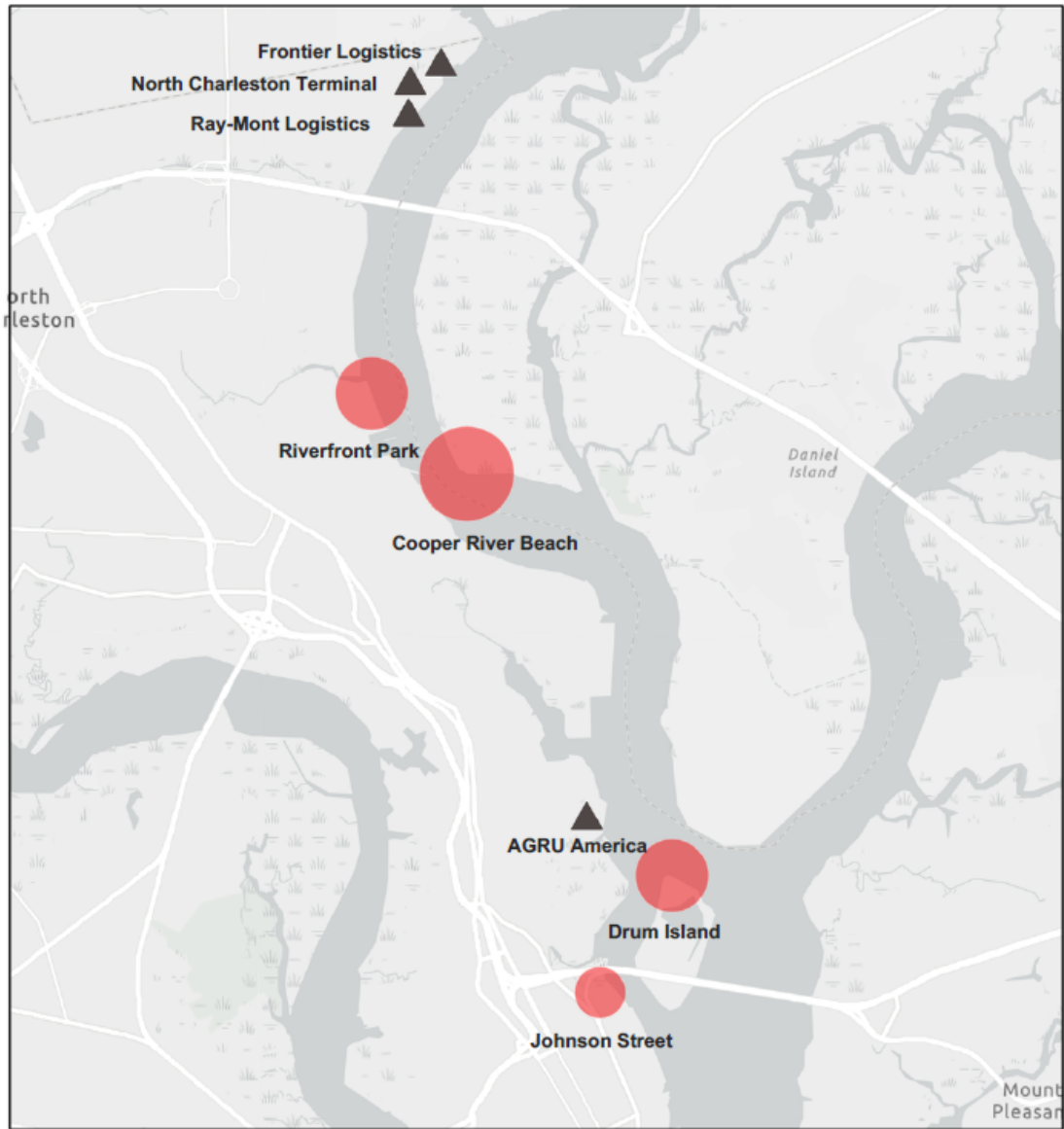
nurdles at: (i) Johnson Street and the Seabreeze Marina, shortly downstream from Agru; (ii) Riverfront Park, immediately downstream from the North Charleston Terminal; (iii) the northern end of Drum Island, immediately downstream of the Agru facility; and (iv) an unnamed island across and slightly downriver of Riverfront Park and the North Charleston Terminal. *See* Figures 1, 2. Charleston Waterkeeper collects these nurdles in ten-minute collection events, pursuant to the sampling protocol published in *Marine Pollution Bulletin*¹⁶, in which a collector gathers as many nurdles in the area as can be spotted in a ten-minute period. In these ten-minute collection events, Charleston Waterkeeper consistently found and continues to find large quantities of nurdles. These time-limited sampling events reflect only a small fraction of the nurdle pollution in the environment.

[continued on next page]

¹⁶ Jace W. Tunnell et al., *Measuring Plastic Pellet (Nurdle) Abundance on Shorelines Throughout the Gulf of Mexico Using Citizen Scientists: Establishing a Platform for Policy-Relevant Research*, 151 *MARINE POLLUTION BULLETIN* (2020).

Figure 1: Sampling Locations

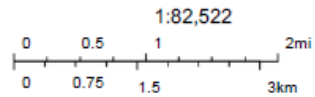
Plastic Pellet Pollution in the Charleston Harbor



Average number of pellets recovered in 10-minute sampling events conducted repeatedly from October 2021 to May 2026:



▲ Potential Pellet Sources



Map created by: Britney Prebis (britney@charlestonwaterkeeper.org)
Last updated: May 15, 2026
Data Sources: Charleston Waterkeeper, Esri, TomTom, Garmin, (c) OpenStreetMap contributors, and the GIS User Community, Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, (c) OpenStreetMap contributors, and the GIS User Community

Figure 2: Sampling Data

Location	Sample ID (Standardized)	Collection Date	Total Number in Sample
Riverfront Park	RFP-20211015	10/15/2021	105
Riverfront Park	RFP-20211019	10/19/2021	131
Johnson Street	JS-20211020	10/20/2021	81
Johnson Street	JS-20211026	10/26/2021	53
Riverfront Park	RFP-20211026	10/26/2021	111
Riverfront Park	RFP-20211102	11/2/2021	67
Johnson Street	JS-20211104	11/4/2021	89
Riverfront Park	RFP-20211108	11/8/2021	185
Johnson Street	JS-20211110	11/10/2021	49
Riverfront Park	RFP-20211116	11/16/2021	154
Johnson Street	JS-20211121	11/21/2021	23
Johnson Street	JS-20211123	11/23/2021	154
Riverfront Park	RFP-20211123	11/23/2021	119
Riverfront Park	RFP-20211130	11/30/2021	212
Johnson Street	JS-20211201	12/01/2021	109
Riverfront Park	RFP-20211207	12/07/2021	97
Riverfront Park	RFP-20211214	12/14/2021	89
Johnson Street	JS-20211215	12/15/2021	64
Riverfront Park	RFP-20211220	12/20/2021	108
Johnson Street	JS-20211222	12/22/2021	97
Riverfront Park	RFP-20220104	1/4/2022	78
Johnson Street	JS-20220105	1/5/2022	49
Riverfront Park	RFP-20220111	1/11/2022	70
Johnson Street	JS-20220113	1/13/2022	59
Johnson Street	JS-20230113	1/13/2022	135
Riverfront Park	RFP-20220118	1/18/2022	114
Johnson Street	JS-20220120	1/20/2022	114
Riverfront Park	RFP-20220125	1/25/2022	77
Johnson Street	JS-20220128	1/28/2022	29
Riverfront Park	RFP-20220201	2/1/2022	15
Johnson Street	JS-20220204	2/4/2022	93
Riverfront Park	RFP-20220209	2/9/2022	58
Riverfront Park	RFP-20220215	2/15/2022	146
Johnson Street	JS-20220218	2/18/2022	37
Riverfront Park	RFP-20220222	2/22/2022	86
Johnson Street	JS-20220225	2/25/2022	18
Johnson Street	JS-20220304	3/4/2022	29

Riverfront Park	RFP-20220308	3/8/2022	97
Riverfront Park	RFP- 20220317	3/17/2022	50
Johnson Street	JS-20220321	3/21/2022	21
Riverfront Park	RFP-20220322	3/22/2022	30
Johnson Street	JS-20220328	3/28/2022	34
Riverfront Park	RFP-20220330	3/30/2022	23
Johnson Street	JS-20220408	4/8/2022	81
Riverfront Park	RFP-20220408	4/8/2022	37
Riverfront Park	RFP-20220413	4/13/2022	11
Johnson Street	JS-20220419	4/19/2022	74
Riverfront Park	RFP-20220428	4/28/2022	47
Johnson Street	JS-20220501	5/1/2022	75
Riverfront Park	RFP-20220721	7/21/2022	200
Riverfront Park	RFP-20220721	7/21/2022	201
Johnson Street	JS-20230111	1/11/2023	50
Riverfront Park	RFP-20230113	1/13/2023	42
Johnson Street	JS-20230120	1/20/2023	110
Riverfront Park	RFP-20230120	1/20/2023	52
Johnson Street	JS-20230127	1/27/2023	116
Riverfront Park	RFP-20230127	1/27/2023	80
Johnson Street	JS-20230203	2/3/2023	104
Riverfront Park	RFP-20230203	2/3/2023	81
Johnson Street	JS-20230210	2/10/2023	111
Riverfront Park	RFP-20230210	2/10/2023	46
Drum Island	DRMI-20240226A	2/26/2024	81
Drum Island	DRMI-20240226B	2/26/2024	110
Drum Island	DRMI-20240226C	2/26/2024	146
Johnson Street	JS-20240301	3/1/2024	13
Johnson Street	JS-20240531	5/31/2024	10
Riverfront Park	RFP-20240531	5/31/2024	22
Johnson Street	JS-20240611	6/11/2024	7
Riverfront Park	RFP-20240611	6/11/2024	7
Johnson Street	JS-20240627	6/27/2024	6
Riverfront Park	RFP-20240627	6/27/2024	10
Johnson Street	JS-20240714	7/14/2024	13
Riverfront Park	RFP-20240714	7/14/2024	32
Johnson Street	JS-20240802	8/2/2024	5
Riverfront Park	RFP-20240802	8/2/2024	8
Riverfront Park	RFP-20240812A	8/12/2024	1
Riverfront Park	RFP-20240812B	8/12/2024	50
Riverfront Park	RFP-20241113	11/13/2024	45
Johnson Street	JS-20241114	11/14/2024	62
Johnson Street	JS-20241227	12/27/2024	43

Riverfront Park	RFP-20241227	12/27/2024	48
Riverfront Park	RFP-20250228A	2/28/2025	43
Riverfront Park	RFP-20250228B	2/28/2025	11
Riverfront Park	RFP-20250228C	2/28/2025	51
Drum Island	DRMI-20250627A	6/27/2025	105
Drum Island	DRMI-20250627B	6/27/2025	54
Drum Island	DRMI-20250627C	6/27/2025	34
Drum Island	DRMI-20250627D	6/27/2025	35
Cooper River Beach	CRB-20250627A	6/27/2025	13
Cooper River Beach	CRB-20250627B	6/27/2025	14
Drum Island	DRMI-20250716C	7/16/2025	13
Drum Island	DRMI-20250716A	7/16/2025	92
Drum Island	DRMI-20250716B	7/16/2025	62
Cooper River Beach	CRB-20250716	7/16/2025	91
Drum Island	DRMI-20250723A	7/23/2025	34
Drum Island	DRMI-20250723B	7/23/2025	148
Riverfront Park	RFP-20250813	8/13/2025	44
Riverfront Park	RFP-20250813	8/13/2025	39
Johnson Street	JS-20251007A	10/7/2025	26
Johnson Street	JS-20251007B	10/7/2025	39
Riverfront Park	RFP-20251007	10/7/2025	61
Riverfront Park	RFP-20251008	10/7/2025	101
Drum Island	DRMI-20251008	10/8/2025	50
Cooper River Beach	CRB-20251008	10/8/2025	140
Johnson Street	JS-20251013B	10/13/2025	65
Johnson Street	JS-20251013A	10/13/2025	55
Riverfront Park	RFP-20251013B	10/13/2025	69
Riverfront Park	RFP-20251013A	10/13/2025	96
Drum Island	DRMI-20251015	10/15/2025	34
Cooper River Beach	CRB-20251015	10/15/2025	120
Riverfront Park	RFP-20251021	10/21/2025	144
Johnson Street	JS-20251022	10/22/2025	115
Drum Island	DRMI-20251024	10/24/2025	26
Cooper River Beach	CRB-20251024	10/24/2025	93
Cooper River Beach	CRB-20251029	10/29/2025	127
Drum Island	DRMI-20251105	11/5/2025	47
Cooper River Beach	CRB-20251105	11/5/2025	68
Riverfront Park	RFP-20251105	11/5/2025	63
Johnson Street	JS-20251106	11/6/2025	77
Johnson Street	JS-20251112	11/12/2025	23
Riverfront Park	RFP-20251112	11/12/2025	44
Drum Island	DRMI-20251119A	11/19/2025	56

Drum Island	DRMI-20251119B	11/19/2025	34
Cooper River Beach	CRB-20251119A	11/19/2025	130
Cooper River Beach	CRB-20251119B	11/19/2025	57
Johnson Street	JS-20251119	11/19/2025	24
Riverfront Park	RFP-20251119A	11/19/2025	168
Riverfront Park	RFP-20251119B	11/19/2025	32
Drum Island	DRMI-20251125	11/25/2025	55
Cooper River Beach	CRB-20251125	11/25/2025	266
Riverfront Park	RFP-20251125	11/25/2025	49
Johnson Street	JS-20251126	11/26/2025	77
Drum Island	DRMI-20251204	12/4/2025	19
Cooper River Beach	CRB-20251204	12/4/2025	161
Johnson Street	JS-20251204	12/4/2025	98
Riverfront Park	RFP-20251204	12/4/2025	41
Drum Island	DRMI-20251210	12/10/2025	81
Cooper River Beach	CRB-20251210	12/10/2025	189
Johnson Street	JS-20251210	12/10/2025	59
Riverfront Park	RFP-20251210	12/10/2025	123
Johnson Street	JS-20251217A	12/17/2025	78
Johnson Street	JS-20251217B	12/17/2025	147
Riverfront Park	RFP-20251217A	12/17/2025	75
Riverfront Park	RFP-20251217B	12/17/2025	125
Johnson Street	JS-20251223A	12/23/2025	85
Johnson Street	JS-20251223B	12/23/2025	139
Riverfront Park	RFP-20251223A	12/23/2025	106
Riverfront Park	RFP-20251223B	12/23/2025	124
Johnson Street	JS-20260101A	1/1/2026	74
Johnson Street	JS-20260101B	1/1/2026	121
Riverfront Park	RFP-20261010A	1/1/2026	303
Riverfront Park	RFP-20260101B	1/1/2026	318
Johnson Street	JS-20260105A	1/5/2026	64
Johnson Street	JS-20260105B	1/5/2026	94
Riverfront Park	RFP-20260105A	1/5/2026	200
Riverfront Park	RFP-20261015B	1/5/2026	173
Riverfront Park	RFP-20260122A	1/22/2026	83
Riverfront Park	RFP-20260122B	1/22/2026	269
Johnson Street	JS-20260123A	1/23/2026	88
Johnson Street	JS-20260123B	1/23/2026	89
Drum Island	DRMI-20260128	1/28/2026	96
Cooper River Beach	CRB-20260128	1/28/2026	268
Johnson Street	JS-20260128A	1/28/2026	80
Johnson Street	JS-20260128B	1/28/2026	112

Riverfront Park	RFP-20260128A	1/28/2026	218
Riverfront Park	RFP-20260218B	1/28/2026	239
Drum Island	DRMI-20260206	2/6/2026	49
Cooper River Beach	CRB-20260206	2/6/2026	269
Johnson Street	JS-20260206A	2/6/2026	58
Johnson Street	JS-20260206B	2/6/2026	97
Riverfront Park	RFP-20260206A	2/6/2026	108
Riverfront Park	RFP-20260206B	2/6/2026	231
Johnson Street	JS-20260211A	2/11/2026	78
Johnson Street	JS-20260211B	2/11/2026	97
Riverfront Park	RFP-20260211A	2/11/2026	178
Riverfront Park	RFP-20260211B	2/11/2026	316
Drum Island	DRMI-20260213	2/13/2026	223
Cooper River Beach	CRB-20260213	2/13/2026	436
Johnson Street	JS-20260217A	2/17/2026	98
Johnson Street	JS-20260217B	2/17/2026	99
Riverfront Park	RFP-20260217A	2/17/2026	95
Riverfront Park	RFP-20260217B	2/17/2026	218
Drum Island	DRMI-20260219	2/19/2026	291
Cooper River Beach	CRB-20260219	2/19/2026	422
Drum Island	DRMI-20260224	2/24/2026	225
Cooper River Beach	CRB-20260224	2/24/2026	396
Johnson Street	JS-20260224	2/24/2026	91
Riverfront Park	RFP-20260224	2/24/2026	233
Drum Island	DRMI-20260306	3/6/2026	274
Cooper River Beach	CRB-20260306	3/6/2026	386
Johnson Street	JS-20260306	3/6/2026	82
Riverfront Park	RFP-20260306	3/6/2026	256
Drum Island	DRMI-20260311	3/11/2026	228
Cooper River Beach	CRB-20260311	3/11/2026	446
Johnson Street	JS-20260312	3/12/2026	95
Riverfront Park	RFP-20260312	3/12/2026	202
Drum Island	DRMI-20260319	3/19/2026	226
Cooper River Beach	CRB-20260319	3/19/2026	402
Johnson Street	JS-20260322	3/22/2026	76
Riverfront Park	RFP-20260322	3/22/2026	227
Drum Island	DRMI-20260327	3/27/2026	201
Cooper River Beach	CRB-20260327	3/27/2026	408
Johnson Street	JS-20260327	3/27/2026	78
Riverfront Park	RFP-20260327	3/27/2026	238
Drum Island	DRMI-20260403	4/3/2026	220
Cooper River Beach	CRB-20260403	4/3/2026	291
Johnson Street	JS-20260403	4/3/2026	93

Riverfront Park	RFP-20260403	4/3/2026	200
Johnson Street	JS-20260412	4/12/2026	84
Riverfront Park	RFP-20260412	4/12/2026	162
Drum Island	DRMI-20260414	4/14/2026	284
Cooper River Beach	CRB-20260414	4/14/2026	579
Drum Island	DRMI-20260424	4/24/2026	210
Cooper River Beach	CRB-20260424	4/24/2026	419
Johnson Street	JS-20260424	4/24/2026	77
Riverfront Park	RFP-20260424	4/24/2026	189
Drum Island	DRMI-20260508	5/8/2026	133
Cooper River Beach	CRB-20260508	5/8/2026	352
Johnson Street	JS-20260508	5/8/2026	60
Riverfront Park	RFP-20260508	5/8/2026	173
TOTAL			25,508

The close proximity of these nurdle-polluted sites to Agru, Frontier, Ray-Mont, and the North Charleston Terminal, which are the only facilities that handle nurdles in this area of Charleston, demonstrates that these facilities are responsible for significant nurdle pollution in Charleston-area waters.

V. CLEAN WATER ACT VIOLATIONS

Charleston Waterkeeper hereby gives notice of intent to sue Agru, Frontier, Ray-Mont, and SC Ports under 33 U.S.C. § 1365(a)(1) for the following violations: (i) as to Agru and SC Ports, discharges of nurdles into the Cooper River and Charleston Harbor in violation of their General Permit for Industrial Stormwater; and (ii) as to all parties, unpermitted discharges of nurdles from stormwater and/or other conveyances into the Cooper River and/or Charleston Harbor, all in violation of Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). These violations have been occurring at the North Charleston Terminal since at least October 15, 2021, and at Agru since at least October 20, 2021—the dates when Charleston Waterkeeper first began collecting nurdles around Riverfront Park and Johnson Street, respectively. Upon information and belief, discovery will show that unlawful nurdle discharges were occurring before that date and continue to occur.

In 1972, Congress passed the Clean Water Act “to restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.” 33 U.S.C. § 1251(a). Congress established “the national goal that the discharge of pollutants into navigable waters be eliminated.” *Id.* § 1251(a)(1). To achieve these objectives, the Clean Water Act prohibits the discharge of “any pollutant” from a point source to “waters of the United States,” *id.* §§ 1311(a), 1362(7), (12), except in compliance with, among other conditions, a NPDES permit issued under Section 402 of the Act, *id.* § 1342.

A pollutant may only be discharged by a permit holder if its presence in the discharge was adequately disclosed to the permitting agency in an application for a NPDES permit. “To the extent that a permit holder discharges a pollutant that it did not disclose, it violates the NPDES permit

and the CWA.” *Piney Run Preservation Ass’n v. Cty Comm’rs*, 268 F.3d 255, 268 (4th Cir. 2001); *see also S. Appalachian Mtn. Stewards v. A&G Coal Corp.*, 758 F.3d 560, 565–68 (4th Cir. 2014).

If a facility discharges a pollutant without a NPDES permit, or a permittee discharges a pollutant not authorized by its permit, the Clean Water Act empowers citizens to sue for appropriate relief. Section 505(a)(1) of the Act provides that “any citizen may commence a civil action on his own behalf . . . against any person . . . who is alleged to be in violation of [] an effluent standard or limitation under this chapter.” 33 U.S.C. § 1365(a)(1). The Act defines “effluent standard or limitation” enforceable via citizen suit to include “an unlawful act under subsection (a) of section 1311 of this title [prohibiting unpermitted discharges],” and the violation of a NPDES permit or condition of a NPDES permit. 33 U.S.C. § 1365(a)(1), (f).

Each discharge of a pollutant that is not authorized by a NPDES permit constitutes a separate violation of the Clean Water Act, subject to strict liability. *See* 33 U.S.C. § 1319(d). Persons in violation of this prohibition are subject to a civil penalty of up to \$68,445 per day for each violation, *id.*; 40 C.F.R. § 19.4, in addition to appropriate declaratory and injunctive relief and attorneys’ fees and costs. *See* 33 U.S.C. § 1365.

Frontier and Ray-Mont have no NPDES permit coverage for their operations out of the North Charleston Terminal. Agru and SC Ports are subject to the NPDES General Permit for Industrial Stormwater (#SCR000000). Agru and SC Ports do not have NPDES permits for any discharges other than industrial stormwater. The General Permit specifically **forbids** the discharge of nurdles, requiring that the operator “**eliminate discharges of plastic in stormwater**,” including “plastic resin pellets.”¹⁷ Neither Agru nor SC Ports have disclosed discharges of plastic pellets or nurdles in their water pollution to DES. Accordingly, discharges of nurdles from the Facilities into the Cooper River and Charleston Harbor violate the CWA and, in the case of Agru and SC Ports, the general NPDES permit.

A. General Permit Violations – Agru and SC Ports.

Both Agru and SC Ports are covered by the General Permit for Industrial Stormwater; these are the only parties covered by this Notice with any permit for discharges of stormwater, but that permit does not allow discharges of nurdles.

Discharge of nurdles from the Agru and SC Ports facilities via stormwater are prohibited by and violate numerous sections of the General Permit for Industrial Stormwater—most notably, the requirement that “[f]acilities that handle pre-production plastic must implement best management practices to **eliminate** discharges of plastic in stormwater,” including “plastic resin pellets.”¹⁸ The presence of significant numbers of nurdles immediately downstream of Agru and

¹⁷ NPDES General Permit for Stormwater Discharges Associated with Industrial Activities at § 2.1.2.2 (emphasis added).

¹⁸ NPDES General Permit for Stormwater Discharges Associated with Industrial Activities at § 2.1.2.2 (emphasis added).

SC Ports shows that these facilities have *not* implemented best management practices to eliminate discharges of plastic in stormwater, particularly because the nearby waters of the Cooper River—where this pollution has been found—are a receiving waterbody for both SC Ports’ and Agru’s stormwater discharge. *See* Exs. 3, 4 at 4.

The General Permit also requires that Agru and SC Ports take specific steps to prevent the discharge of pollutants via stormwater. This includes ensuring that “waste, garbage, and floatable debris are not discharged to receiving waters by keeping exposed areas free of such materials or by intercepting them before they are discharged,”¹⁹ and “minimiz[ing] the exposure of manufacturing, processing, and material storage areas (including loading and unloading, storage, disposal, cleaning, maintenance, and fueling operations) to rain, snow, snowmelt, and runoff by either locating these industrial materials and activities inside or protecting them with storm resistant coverages.”²⁰

A significant amount of nurdles were discovered during sampling around and downstream of the Agru facility at the following locations: Drum Island (3,976 pellets); and Johnson Street (5,309 pellets). *See* Figs. 1, 2. These time-limited sampling events reflect only a small fraction of the nurdle pollution in the environment. Plastic pellets discovered during sampling are typically floatable debris.

There have been previously documented concerns with the Agru facility’s stormwater management and its effectiveness at limiting nurdle pollution. In 2023, SCDNR conducted a site visit and noted that “plastic pellets were found scattered across the existing laydown area,” Ex. 1, as shown in photos from the site (Figure 3).

[continued on next page]

¹⁹ *Id.* at § 2.1.2.11.

²⁰ *Id.* at § 2.1.2.1.



Figure 3: Nurdles scattered at the Agru site. Ex. 1 at 8.

The agency expressed “concerns regarding the release of plastic pellets into the adjacent aquatic environment.” Ex. 1 at 3. Agru’s response to these concerns incorrectly claimed that the Waterkeeper had not recovered nurdles around the facility, which purportedly “is an indication of the efficacy of their stormwater efforts, and therefore, there is limited risk of microplastic pollution.” Ex. 1 at 4. To the contrary, Waterkeeper’s sampling efforts have identified a significant amount of nurdles at two sites immediately downstream from the Agru facility. The significant numbers of nurdles found during sampling around the Agru site and in the Cooper River and Charleston Harbor downstream from the Agru facility demonstrates that Agru is discharging nurdles via stormwater.

Any nurdles discharged from the Agru site via stormwater violates the CWA, 33 U.S.C. § 1365(a), and multiple control measures in the General Permit, including § 2.1.2.2 (requirement to eliminate discharges of plastic pellets in stormwater); § 2.1.2.1 (requirement to minimize exposure of materials to runoff); and § 2.1.2.11 (requirement to keep exposed areas free of waste and debris, **including floatable debris**).

Sampling also discovered a high number of nurdles around and downstream of the North Charleston Terminal, including the following locations: Riverfront Park (9,680 pellets); and an unnamed beach on the Cooper River (6,543 pellets). *See* Figs. 1, 2. These time-limited sampling events reflect only a small fraction of the nurdle pollution in the environment.

Any discharge of nurdles from the North Charleston Terminal via stormwater violates the CWA, 33 U.S.C. § 1365(a), and multiple control measures in the General Permit, including § 2.1.2.2 (requirement to eliminate discharges of plastic pellets in stormwater); § 2.1.2.1 (requirement to minimize exposure of materials to runoff); and § 2.1.2.11 (requirement to keep exposed areas free of waste and debris). More, SC Ports is responsible for ensuring both itself and its tenants meet the terms of the General Permit.

B. Unpermitted Discharges of Nurdles in Violation of the Clean Water Act – Agru, SC Ports, Frontier, and Ray-Mont.

In addition to Agru and SC Ports’ violations of the General Permit for Industrial Stormwater, all parties are liable for unpermitted discharges of nurdles in violation of the Clean Water Act.

i. Agru

As explained above, sampling by Charleston Waterkeeper has discovered a significant amount of nurdles along the Cooper River and Charleston Harbor immediately downstream of the Agru.

Given SCDNR’s earlier concerns with nurdles at the Agru facility, discussed above, the large numbers of nurdles “scattered across” Agru’s open-air storage yard, Ex. 1 at 3, the high mobility of nurdles in wind and water, and the significant numbers of nurdles observed and recovered near Agru, it is likely that industrial stormwater is not the only source of nurdle pollution entering the waterbodies from Agru. To the extent that nurdles are discharged into the Cooper River and Charleston Harbor by Agru via any point source other than industrial stormwater—including discharges from trucks, boats, nurdle handling, storage, loading equipment, ditches, pipes, or other conveyances at or near the Facilities—it constitutes an unpermitted discharge in violation of the Clean Water Act, 33 U.S.C. § 1311(a), because Agru has no NPDES permits for such point source discharges.

ii. Frontier and Ray-Mont

Charleston Waterkeeper has also documented a significant number of nurdles immediately downstream from the North Charleston Terminal. In a letter responding to a Freedom of Information Act request, the South Carolina Ports Authority identified Frontier and Ray-Mont as the only companies that handle nurdles at the North Charleston Terminal, meaning any nurdles near the terminal facility can almost certainly be attributed to discharges from Frontier, Ray-Mont, and/or the SC Ports’ handling of nurdles from either facility.

Yet neither Frontier nor Ray-Mont has a NPDES permit authorizing such discharges. Any discharges of nurdles from the North Charleston Terminal by Frontier and Ray-Mont are therefore illegal, unpermitted discharges under the Clean Water Act.

iii. SC Ports

As the owner and operator of the North Charleston Terminal, SC Ports clearly has control, and now has knowledge (at the least), of discharges coming from its Terminal by Frontier and/or Raymont. SC Ports is therefore also responsible for the unpermitted discharge of nurdles from the Frontier and Ray-Mont facilities located at the North Charleston Terminal. *See Puget Soundkeeper Alliance v. Cruise Terminals of America, LLC*, 216 F.Supp.3d 1198, 1213 (W.D. Wash., 2015) (“The Port may also be liable if it had sufficient control over the cruise terminal and knowledge of the alleged unpermitted discharges, even if it did not create the discharges itself.”) (citing *Assateague Coastkeeper v. Alan & Kristin Hudson Farm*, 727 F.Supp.2d 433, 442 (D. Md. 2010) (finding that the CWA imposes liability on the party who created the discharge and on the party who controlled the discharger).

In addition, SC Ports is directly liable for any point source discharges resulting from its own activities, including handling of Frontier’s and/or Ray-Mont’s nurdles by its own staff and/or equipment during the transloading process. SC Ports apparently engages in some aspects of the transloading process, as evidenced by its SIC Code (4491) which identifies it as a marine cargo handler. According to the SC Ports website, part of its operations out of the North Charleston Terminal include “a team of waterfront professionals that seamlessly move your containers on and off ships.” SC Ports thus provides staff and equipment for operators loading and unloading cargo and materials at the North Charleston Terminal and is liable under the CWA to the extent nurdles are discharged through these processes.

VI. RCRA VIOLATIONS

Charleston Waterkeeper hereby gives notice of intent to sue Agru, Frontier, Ray-Mont, and SC Ports under RCRA for violations of 42 U.S.C. § 6972(a)(1)(B) and 42 U.S.C. § 6945(a). These RCRA violations have been occurring since at least October 2021—the dates when Charleston Waterkeeper first began collecting nurdles around the Riverfront Park near the North Charleston Terminal and Johnson Street near the Agru facility, respectively. Upon information and belief, discovery will show that unlawful releases of nurdles and open dumping were occurring before these dates and continues to occur at the Facilities.

RCRA “is a comprehensive environmental statute that governs the treatment, storage, and disposal of solid and hazardous waste.” *Goldfarb v. Mayor & City Council of Baltimore*, 791 F.3d 500, 504 (4th Cir. 2015) (quoting *Meghrig v. KFC Western, Inc.*, 516 U.S. 479, 483 (1996)). RCRA’s “primary purpose . . . is to reduce the generation of hazardous waste and to ensure the proper treatment, storage, and disposal of that waste which is nonetheless generated, so as to minimize the present and future threat to human health and the environment.” *Meghrig*, 516 U.S. at 483.

Relevant here, RCRA contains two central protections: (i) the prohibition on handling, storage, treatment, transportation or disposal of any solid or hazardous waste which “may present an imminent and substantial endangerment to health or the environment,” 42 U.S.C. §

6972(a)(1)(B), and (ii) the prohibition on disposing of solid or hazardous waste in a manner that constitutes “open dumping,” *id.* § 6945(a). RCRA empowers affected citizens to enforce these prohibitions in federal court through declaratory and injunctive relief, *id.* § 6972(a)(1), and civil penalties of up to \$93,058 per day for each violation, *see id.*; *id.* § 6928(g); 40 C.F.R. § 19.4.

Agru, SC Ports, Frontier, and Ray-Mont are liable under RCRA, 42 U.S.C. § 6972(a)(1)(A)–(B) and § 6945(a), because they are: (i) disposing of nurdles in a manner which may present an imminent and substantial endangerment of health and/or the environment, and (ii) disposing of nurdles in a manner that constitutes “open dumping” of these wastes.

A. *Imminent and Substantial Endangerment*

RCRA allows affected citizens to file suit against:

[A]ny person, . . . including any past or present generator, past or present transporter, or past or present owner or operator of a treatment, storage, or disposal facility, who has contributed or who is contributing to the past or present handling, storage, treatment, transportation, or disposal of any solid or hazardous waste which may present an imminent and substantial endangerment to health or the environment.

42 U.S.C. § 6972(a)(1)(B).

RCRA defines “solid waste” as “any garbage, refuse, sludge from a waste treatment plant . . . and other discarded material . . . resulting from industrial, [or] commercial . . . operations[.]” 42 U.S.C. § 6903(27). The phrase “other discarded material” has been interpreted “expansive[ly]” by federal courts to include material released into the environment from an industrial site contrary to its intended use. *E.g., Charleston Waterkeeper v. Frontier Logistics, L.P.*, 488 F. Supp. 3d 240, 254–57 (D.S.C. 2020) (nurdles released by facility into Charleston Harbor were “discarded material” under RCRA). RCRA defines “hazardous waste” as, among other things, a subset of solid waste that poses a “substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.” 42 U.S.C. § 6902(5)(B). An imminent and substantial endangerment claim under RCRA “may be predicated on a qualifying *past or present* violation.” *Goldfarb*, 791 F.3d at 504 (citation and quotations omitted, emphasis in original).

Agru, Frontier, Ray-Mont, and SC Ports all handle nurdles. The Agru facility uses nurdles in its manufacturing process for plastic pipes. Frontier and Ray-Mont both engage in the transloading of nurdles out of the North Charleston Terminal. SC Ports, as a Marine Cargo Handler (SIC Code 4491) and owner of the North Charleston Terminal, also provides staff and equipment which likely assist with the transloading of nurdles.²¹ Agru, Frontier, Ray-Mont, and SC Ports’

²¹ SC Ports has a Standard Industrial Classification (“SIC”) Code of 4491, or Marine Cargo Handling. This means that SC Ports is engaged in operating waterfront terminals and transferring cargo between ships and other modes of transportation.

actions have caused plastic pellets to enter and contaminate the lands surrounding the Facilities, the Cooper River, and the Charleston Harbor in large numbers.

As noted, Charleston Waterkeeper has documented pellets littering the shoreline and waterways immediately downstream of the Facilities. These nurdles are released into the environment due to the Facilities' practices, such as marine cargo holding and transloading nurdles, which are insufficient to contain pellets throughout the handling, transportation, and, in the case of Agru, manufacturing processes that take place onsite. To the extent these pellets are escaping the facilities through means other than a point source discharge, they are subject to RCRA liability. For example, diffuse rainwater, wind, or spills from trucks likely carry nurdles onto the land and into waters surrounding the Facilities. As discussed in Section III, nurdles are harmful to wildlife and pose a risk to humans who eat fish or other wildlife that have ingested the "cocktail of contaminants" associated with nurdle pollution. These issues are of particular concern given the large amount of recreational activity and coastal tourism immediately downstream of the Facilities, including at Sullivan's Island, Isle of Palms, and other nearby beaches.

The Facilities are, therefore, contributing to the past or present generation, handling, storage, treatment, transportation, or disposal of solid or hazardous waste which may present an imminent and substantial endangerment to health or the environment. These RCRA violations have been occurring since at least October 2021. Upon information and belief, discovery will show that unlawful nurdle releases were occurring before those dates and are continuing to occur.

B. Open Dumping

In addition to substantial endangerment, RCRA prohibits "any solid waste management practice or disposal of solid waste or hazardous waste which constitutes the open dumping" of that waste. 42 U.S.C. § 6945(a). An "open dump" refers to "any facility or site where solid waste is disposed of which is not a sanitary landfill which meets the criteria promulgated under section 6944 of this title and which is not a facility for disposal of hazardous waste." *Id.* § 6903(14).

The Facilities do not possess any "sanitary landfill[s]" nor "facility[ies] for disposal of hazardous waste." Nevertheless, the Facilities are disposing of various solid and hazardous wastes, including nurdles.

EPA has promulgated criteria to clarify what practices may violate RCRA's open dumping prohibitions. 40 C.F.R. § 257. The regulations provide that "[f]acilities or practices in floodplains shall not . . . result in washout of solid waste, so as to pose a hazard to human life, wildlife, or land or water resources." *Id.* § 257.3-1(a). The "washout" of solid waste is defined as the "carrying away of solid waste by waters" of at least a 100-year flood. 40 C.F.R. § 257.3-1(b)(1), (3). "Carrying away" does not require ongoing human conduct." *Potomac Riverkeeper v. Nat'l Cap. Skeet & Trap Club, Inc.*, 388 F. Supp. 2d 582, 587 (D. Md. 2005). In fact, the movement of previously disposed solid waste may constitute a violation of RCRA. *See United States v. Waste Indus., Inc.*, 734 F.2d 159, 163, 164–65 (4th Cir. 1984) (RCRA "disposal" does not require "active

human conduct”); *Nurad, Inc. v. William E. Hooper & Sons, Co.*, 966 F.2d 837, 845 (4th Cir. 1992).

As explained above, the disposal of nurdles in and around the sites is evidenced by Charleston Waterkeeper’s recovery of significant amounts of nurdles around the Facilities and in downstream waters. All of the Facilities are sited within the 100-year floodplain.²² The Facilities’ disposal of wastes in these flood-prone areas constitutes an open dump and open dumping in violation of RCRA, 42 U.S.C. § 6945(a), because it creates a substantial risk of the “washout” of nurdles into the Cooper River and Charleston Harbor by 100-year floodwaters.

VII. PERSONS RESPONSIBLE FOR VIOLATIONS

Pursuant to 40 C.F.R. §§ 135.3 and 254.3, Agru, Frontier, Ray-Mont, and SC Ports are identified as persons responsible for the violations described herein. Agru conducts industrial operations that use nurdles to produce plastic pipes on site. Frontier and Ray-Mont operate nurdle transloading facilities at the North Charleston Terminal. The SC Ports owns and operates the North Charleston Terminal, and likely handles Frontier’s and Raymont’s nurdles using Port employees, equipment, and/or facilities. Agru, Frontier, Ray-Mont, and SC Ports are responsible for and control the trucks, buildings, containers, and other conveyances, equipment, and vehicles that load, unload, store, transport, package, or otherwise handle nurdles at and near their facilities. Agru and SC Ports hold General Permits for Industrial Stormwater for their sites and are liable for any violations thereof.

VIII. PERSONS GIVING NOTICE AND LEGAL COUNSEL

In accordance with 40 C.F.R. §§ 135.3 and 254.3, Charleston Waterkeeper provides the name, address, and telephone number of the persons giving notice:

Charleston Waterkeeper
P.O. Box 29
Charleston, SC 29402
(843) 607-3390

The Southern Environmental Law Center is legal counsel for Charleston Waterkeeper in this matter and can be contacted at the mail and email addresses and phone number listed below.

IX. CONCLUSION

As set forth in this letter, the Facilities have been, and continue to be, in violation of the Clean Water Act and RCRA as a result of their discharges and releases of nurdles and, in the case of Agru and SC Ports, violations of the NPDES General Permit for Industrial Stormwater. If such

²² See *FEMA Flood Map Service Center*, available at <https://msc.fema.gov/portal/search?AddressQuery=29403>, last accessed March 9, 2026.

violations are not adequately addressed within the applicable notice periods, Charleston Waterkeeper intends to file a citizen suit seeking the maximum remedies authorized by law.

Though prepared to initiate a civil action, Charleston Waterkeeper would welcome working collaboratively with you to address the violations described in this letter. If you wish to discuss such remedies in lieu of protracted litigation, please contact the undersigned counsel promptly.

We thank you for your attention to this matter.

Sincerely,



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