STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Colonial Pipeline Company, Petitioner, vs. South Carolina Department of Revenue, Abbeville County, Anderson County, Greenville County, Aiken County, Laurens County, and York County, Respondents.	)	Docket No. 18-ALJ-17-0443-CC **AMENDED FINAL ORDER**

APPEARANCES:

For Petitioner:	Burnet R. Maybank, III, Esq. and Jim Rourke, Esq.
For Respondent DOR:	Marcus D. Antley, III, Esq.
For Respondents Aiken County et al.:	Walter H. Cartin, Esq.
For Respondents Abbeville County et al.:	Kimila L. Wooten, Esq.

STATEMENT OF THE CASE

This matter is before the Court pursuant to a request for contested case filed by Colonial Pipeline Company (Petitioner or Colonial) on December 5, 2018. Colonial contests the decision of the South Carolina Department of Revenue (Department or DOR) finding certain Colonial assets were not eligible for a property tax exemption for pollution control equipment pursuant to section 12-37-220(A)(8) of the South Carolina Code (2014) and Article 10, Section 3(h) of the South Carolina Constitution (West 2020). Colonial challenges the Department decision for tax years 2017 and 2018.

From March through May 2019, several counties moved to intervene, and the Court granted the motions. Aiken County and Laurens County (Aiken) moved to intervene and are represented together. Abbeville County, Anderson County, Greenville County, and York County (Other Counties) separately moved to intervene and are represented together. Collectively, the counties are referred to as "the Counties," and with the Department, "Respondents."

On December 11, 2019, the parties filed cross-motions for summary judgment, which the Court denied after a hearing. A hearing on the merits was held on August 4-5, 2020, and a Final Order was issued on December 1, 2020, in which the Court concluded that Colonial qualified for

the pollution control equipment exemption, but it was not entitled to the exemption for all the disputed assets. Following that decision, Colonial, Aiken, and Other Counties timely filed Motions for Reconsideration (Motions). In response to the issues raised in the Motions, the Court issues this Amended Final Order.

STIPULATIONS OF FACT

The parties have stipulated to the following facts:

Assessment in Dispute[1]

Tax Year	Property Tax Assessment (without exemption)	Property Tax Assessment (with exemption)	Portion of Assessment Claimed as Pollution Control Property
2017	$12,697,930.00	$11,088,410.00	$1,609,520.00
2018	$13,757,290.00	$12,200,710.00	$1,556,580.00

1. The Taxpayer is a pipeline company that transports refined petroleum, jet fuel, gasoline, diesel, heating oil, kerosene, and blend stocks (collectively, "Refined Petroleum Products," each, a "Refined Petroleum Product").

2. Taxpayer injects drag reducing agents to reduce friction on the lines in South Carolina and does various inspections in this state.

3. Refined Petroleum Products are all present in the pipeline simultaneously. There are no physical barriers between each Refined Petroleum Product in the pipeline, so the Refined Petroleum Products interface with one another in the pipeline. When one Refined Petroleum Product interfaces with another Refined Petroleum Product, they mix to create a fluid called "Transmix."

4. Transmix is a fluid that does not meet the specifications for a fuel that can be used or sold for use.

5. Taxpayer could elect to transport a single Refined Petroleum Product at one time in the pipeline.

6. If the Taxpayer transported a single Refined Petroleum Product, then the Taxpayer would not create Transmix.

7. Each Refined Petroleum Product that combines to create Transmix can be separated into a once again saleable Refined Petroleum Product.

8. Separating Transmix back into each Refined Petroleum Product is part of the Taxpayer's

[1] Colonial does not dispute the valuation of the property nor does it dispute the valuation method; rather, Colonial argues that the property in dispute is exempt from ad valorem taxation pursuant to section 12-37-220(A)(8).

transportation services and is not charged to the customer.

9. The Taxpayer's activities ensure that the quality of each Refined Petroleum Product received by the customer is the same as the Refined Petroleum Product that went into the pipeline.

10. At least 90% of each Refined Petroleum Product transported by the Taxpayer is of the same specification and quantity when it enters the pipeline as it is when it leaves the pipeline.

11. The Taxpayer's pipeline connects to a refinery's storage tanks, which each contain a Refined Petroleum Product.

12. The Taxpayer does not own the Refined Petroleum Products it transports.

13. In addition to other counties, the property at issue in this matter is located in the following South Carolina counties: Anderson, Abbeville, Aiken, Greenville, Laurens, and York (the "counties involved").

14. The Taxpayer has tank farms, delivery facilities, and booster stations in South Carolina. The Taxpayer has two tank farms in South Carolina—one in Belton and the other in Spartanburg. Those tank farms receive and store Refined Petroleum Products from the transmission pipeline and pump the product to individual truck terminals. The Taxpayer's delivery stations in South Carolina are located at the tank farms and deliver Refined Petroleum Products on a transmission line to a truck terminal. The Taxpayer has three booster stations in South Carolina— one in Anderson, one in Simpsonville, and another in Gaffney. The booster stations push Refined Petroleum Products through the pipeline.

15. On April 19, 2017, the Department's Government Services Division received a 2017 application for an ad valorem tax exemption based on § 12-37-220(A)(8). In its letter and accompanying application, the Taxpayer reported a pollution control exemption on pipe coatings, cathodic protection, automatic shut-off valves, wastewater pollution control equipment, storm water pollution control, secondary containment, and tank internal/external floating roofs.

16. The Government Services Division evaluated the exemption application based on whether the property was designed for the elimination, mitigation, prevention, treatment, abatement, or control of water, air, or noise pollution. On August 15, 2017, based on its evaluation, the Government Services Division issued a Property Assessment Notice granting the exemption application as to wastewater pollution control equipment, storm water pollution control, secondary containment, and tank internal/external floating roofs for property tax year 2017 but denying the Taxpayer's exemption application as to pipe coatings, cathodic protection, and automatic shut-off valves.

17. On September 7, 2017, the Taxpayer protested the proposed assessment for 2017. Exhibit A is a true and accurate copy of the protest that the Taxpayer submitted to the Department.

18. On September 20, 2017, the Government Services Division notified the county auditors for the counties involved of the Taxpayer's appeal of the 2017 assessment.

19. On October 19, 2017, the Government Services Division forwarded the 2017 exemption application information to the South Carolina Department of Health and Environmental

Control ("DHEC") for investigation into whether the Taxpayer's claimed property, specifically, pipe coatings, cathodic protection, and automatic shut-off valves qualified as pollution control property, pursuant to § 12-37-220(A)(8).

20. On December 18, 2017, DHEC submitted a letter to the Department in response to the Department's request to investigate the property to determine the portion of pipe coatings, cathodic protection, and automatic shut-off valves that qualifies as pollution control property for 2017. DHEC noted that federal agencies, like the United States Department of Transportation ("USDOT"), regulate pipelines, and DHEC lacks authority to permit, inspect, or enforce pipeline operations.

21. On or around April 11, 2018, the Government Services Division forwarded the file to the Department's Office of General Counsel for Litigation for further analysis of whether the pipe coatings, cathodic protection, and automatic shut-off valves qualified for the pollution control exemption under § 12-37-220(A)(8).

22. On April 23, 2018, the Government Services Division received a 2018 application for an ad valorem tax exemption based on § 12-37-220(A)(8). The Taxpayer claimed the same property as pollution control property on its 2017 and 2018 property tax return.

23. On April 26, 2018, the Department's Office of General Counsel mailed DHEC a letter requesting that DHEC investigate the property of Colonial Pipeline Company to determine the portion of the property that qualifies as pollution control property pursuant to S.C. Code Ann. § 12-37-220(A)(8). The letter further requested that DHEC furnish the Department of Revenue with a detail listing of the property that qualifies as pollution control property.

24. On July 27, 2018, the Government Services Division issued a Property Assessment Notice denying the Taxpayer's exemption application as to pipe coatings, cathodic protection, and automatic shut-off valves but granting the exemption application as to wastewater pollution control equipment, storm water pollution control, secondary containment, and tank internal/external floating roofs for property tax year 2018.

25. The Government Services Division received correspondence postmarked August 13, 2018, from the Taxpayer protesting the proposed assessment for property tax year 2018.

26. On August 14, 2018, the Department's Office of General Counsel forwarded the 2018 exemption application for pipe coatings, cathodic protection, automatic shut-off valves, wastewater pollution control equipment, storm water pollution control, secondary containment, and tank internal/external floating roofs to DHEC for investigation into whether the Taxpayer's claimed property qualified as pollution control property, pursuant to § 12-37-220(A)(8).

27. DHEC submitted a letter dated August 27, 2018 to the Department's Office of General Counsel clarifying that the pipe coatings, cathodic protection, and automatic shut-off valves for property tax years 2017 and 2018 can be described as pollution control

equipment. DHEC again noted that federal agencies, like USDOT, regulate pipelines, and DHEC lacks authority to permit, inspect, or enforce pipeline operations.[2]

28. The Department issued its Determination in this matter on November 19, 2018.

29. The Taxpayer timely requested a contested case hearing on December 5, 2018.

30. The Government Services Division denied the Taxpayer's 2019 application for an ad valorem tax exemption based on § 12-37-220(A)(8) as to all claimed property. The Taxpayer claimed the same property as pollution control property for 2019 as it did for 2017 and 2018. On August 6, 2019, the Taxpayer timely protested the 2019 exemption denial.

31. On September 4, 2019, the Department clarified through its Second Amended Prehearing Statement that Taxpayer does not qualify for an ad valorem property tax exemption pursuant to S.C. Code Ann. § 12-37-220(A)(8) (2014) for *any* of its claimed property—including property for which the Department initially granted the exemption.

32. Petitioner has environmental permits, including air, NPS, groundwater and solid waste disposal.

FINDINGS OF FACT

Having observed the witnesses and exhibits presented at the hearing and taking into consideration the burden of proof and the credibility of the witnesses, I make the following findings of fact by a preponderance of the evidence.

The Nature of Colonial's Business

Colonial is a transportation company that pumps refined petroleum products (e.g., refined petroleum, jet fuel, gasoline, diesel, heating oil, and kerosene) through its pipeline. Colonial processes portions of the products it ships but does not manufacture or produce products. Colonial has approximately 250 customers that ship products through its lines. Colonial receives these

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[2] Although not part of the stipulation of facts, the DHEC letter stated, in part:

> Colonial has specifically listed three items purported to be pollution control equipment that remain at issue in the 2017 and 2018 property tax determination: (1) pipeline cathodic protection, (2) pipeline coatings, and (3) automatic shut-off valves. In the context of USTs, each of these technologies would be characterized by the Department as pollution control equipment. UST's are designed to store petroleum products, and corrosion protection is required for all UST systems to prevent petroleum releases into the environment. Cathodic protection is one method to meet the corrosion protection standard for USTs. Shear valves (considered an automatic shut-off valve) are installed to prevent, or limit the extent of, a petroleum release into the environment. Pipeline coatings are designed to isolate the pipeline to prevent corrosion. While releases from petroleum pipelines would not generally be directly to "water" but more likely to the ground surface, any release of sufficient size from a petroleum pipeline is likely to impact groundwater and may under certain conditions contribute contamination to surface waters via overland flow or groundwater seeps. Therefore, the Department believes the listed technologies can be fairly described as pollution control equipment.

products from approximately thirty refineries in the Gulf Coast region of the United States and transports them to different parts of the country through its pipeline. Colonial is regulated by the Pipeline and Hazardous Materials Safety Administration (PHMSA) and the Office of Pipeline Safety, which are divisions of the U.S. Department of Transportation (USDOT).

Colonial's operations in South Carolina span eleven counties. Their operations are comprised of 515 miles of pipeline, two tank farms, three booster stations, and one delivery facility. All of Colonial's pipelines are buried between four and five feet below the ground. Colonial has two main pipelines in South Carolina, Line 1 and Line 2. These lines run from Pasadena, Texas, to Greensboro, North Carolina. Line 1 transports gasoline and Line 2 transports distillate, which includes jet fuel and ultra-low sulfur diesel. Colonial also has another, smaller line in South Carolina, Line 29. Line 29 carries all of the refined petroleum products except heating oil. Colonial transports between 180,000 to 185,000 barrels of refined petroleum products each day through South Carolina.

The products Colonial transports are moved together "fungibly." This means similar products are interchangeable and a customer may not receive the exact same petroleum it paid Colonial to transport. Further, Colonial transports multiple products back-to-back through the pipelines, which results in some mixing of the products where they interface. When two incompatible products mix the result is called Transmix.

Transmix does not meet the Refined Petroleum Product specifications and cannot be sold for use. Transmix not only occurs from products interfacing in the pipelines, but also from general operation of the tank farms. For example, Transmix can form when Colonial is displacing manifolds and piping. At any given time, Line 1 will generate/contain approximately 15,000 barrels of Transmix, and Line 2 will generate/contain approximately 12,000 to 16,000 barrels of Transmix. Because Transmix is not a saleable product, Colonial must isolate it from the saleable products.

Transmix is isolated using optical interface detectors in a complex, controlled process. Colonial deals with Transmix in one of three ways. First, if the Transmix is the result of, for example, premium gasoline interfacing with regular gasoline, then Colonial can re-sell the Transmix to a customer who purchased regular gasoline but is willing to accept gasoline with a higher octane rating (a product more akin to premium). Second, Transmix can be injected back into the pipeline if it is injected in sufficiently small quantities to not adulterate the product in the line causing it to deviate from customer specifications. Third, if Transmix cannot be dealt with in the above two ways, it can be sold to an independent processor.

Colonial manages the products in its pipelines in several ways. To facilitate movement, Colonial adds Drag Resisting Agents (DRA) to products as they are transported. DRA reduces the amount of friction loss and thus allows higher flow rates through the pipeline. Colonial introduces DRA at its booster facilities, pump stations, tank farms, and stub lines. Colonial also removes water that accumulates in the pipeline through a process called "sting." Colonial filters and drains "sting water" at its tank farms through the use of oil and water separators.

Every fifty to sixty miles along its mainlines, Colonial operates a booster station. Booster stations increase the pressure in the pipeline system to facilitate the movement of petroleum through the pipeline. Additionally, there are three pump stations in South Carolina on Lines 1 and 2, typically with four to five pumps per station, and there are pumps at the tank farms. To ensure safety and quality control, Colonial constantly measures gravity, pressure, and temperature of the products it transports.

In the geographical area at issue in this case (which covers small parts of Georgia and North Carolina in addition to South Carolina), Colonial employees thirty to thirty-five operators and technicians on a full-time basis (and an equal number of independent contractors) to oversee operations, run its facilities, make repairs, and respond to issues. These employees assist, in part, with managing Colonial's two tank farms in South Carolina: one in Belton and one in Spartanburg. Each tank farm has a complex system of pumps, motors, valves, manifolds, injection equipment, control systems, and other infrastructure necessary to move and store product. The two tank farms receive petroleum products from Lines 1 and 2 "into tankage and then that product is delivered out from that tankage to multiple delivery lines to customers."

Belton Junction is a 130-acre above-ground breakout and delivery facility located in Anderson County. This tank farm is comprised of twenty tanks: twelve for gasoline, seven for distillate, and one for Transmix. The facility is staffed by an Operator 24/7. Spartanburg Delivery is a seventy-four-acre above-ground breakout and delivery facility. It is comprised of twenty-two tanks, including thirteen gasoline tanks, six distillate tanks, and three tanks that are out of service. The facility is staffed as the operation schedule dictates with a minimum of one operator on shift during all product receipts and delivery operations. Both tank farms have sting systems that remove water. These facilities also have utility tanks for draining product when maintenance must be performed. Colonial also provides petroleum storage services for third parties at its Belton and Spartanburg facilities. Additionally, truck terminals, which are owned by third parties, are strategically located close to the tank farms to ensure timely transportation.

Components of the Pipeline and Property at Issue

Colonial uses steel pipes, which tend to corrode in an electro-chemical reaction when exposed to air, water, or the ground. Corrosion can result in holes in the pipe that cause a loss of product into the environment and a loss of pressure carrying capacity. Thus, corrosion can lead to a discharge of pollution into the environment. Colonial uses two primary methods for controlling corrosion on its underground pipelines—pipe coatings and cathodic protection systems.

Pipe coatings create a barrier between the pipes and the environmental elements that cause the electro-chemical reactions resulting in corrosion. Modern pipes are purchased pre-coated with a number of different substances, including asphalt-based enamel, coal tar coating, and extruded polyethylene or fusion bonded epoxy. Current pipe coatings have an average lifespan of twenty-five years, so the coating must be replaced and repaired periodically. Colonial claimed the exemption in this case for pipe coating repairs, not new pipes.

Pipe coatings are the original way pipeline companies mitigated corrosion but adding cathodic protection systems proved to be even more effective. Cathodic protection systems help prevent corrosion on pipe exteriors by imparting a direct current onto the buried pipeline using devices call rectifiers. This current provides a new source of electrons that interrupts the electro-chemical reaction between the steel pipe and the environment. As long as the current is sufficient, corrosion is prevented, or at least mitigated.[3] Cathodic protection systems can also detect when a pipe becomes disbonded (the coating comes off) so that repairs can be made to prevent leaks. By preventing corrosion and detecting leaks, cathodic protection systems help prevent the discharge of pollution into the environment. Colonial has installed cathodic protection systems on all of its pipelines throughout the entire pipeline corridor. Performance of the cathodic protection system is monitored regularly.

Colonial also has an automatic shutoff valve that it installed in Gaffney in 2011. When a breach occurs, the valve shuts off the flow of product to impacted portions of the pipeline. The purpose of the valve is to minimize the release of product if the pipeline is compromised or breached. Colonial's valve is controlled remotely from Colonial's offices in Alpharetta, Georgia. Colonial also uses the valve to isolate an area for maintenance work as needed.

[3] Pipeline coatings have also been engineered to have "high dielectric strength," which prevents the flow of electrons to the pipe's surroundings. Thus, the pipe coatings work in tandem with the cathodic protection system to prevent the electro-chemical reactions that cause corrosion.

Pipe coatings, cathodic protection, and the automatic shutoff valve are required under federal law to prevent water and/or air pollution. The undisputed testimony showed this equipment is used in the conduct of Colonial's business.

Oversight of the Pipeline

The pipeline is monitored, at various intervals, both visually and mechanically. Mechanically, Colonial's control room monitors the pipeline from its Alpharetta office twenty-four hours a day. Every two weeks, Colonial conducts an aerial inspection of the pipeline corridor. Once a year, Colonial mows and clears debris from the pipeline right-of-way. The right-of-way is inspected periodically to ensure there are no encroachments on the pipeline. The pipeline is also monitored for flooding and erosion to ensure it has not become exposed. Every five years, Colonial conducts a "close interval survey." During this survey, Colonial inserts an electrode into the ground every 2.5 feet to take a polarization reading. The electrode checks voltage levels to ensure the cathodic protection system is working.

Colonial also uses devices called "smart PIGS" to identify cracks and compromises in the pipeline. Smart PIGS are essentially small machines that are inserted into the pipeline. The PIGS flow along with the product and gather data that is transmitted back to Colonial. Every 200 miles or so, the PIGS are extracted using a "PIG trap."

Rectifiers, which are part of the cathodic protection system, are checked at least six times a year and physically inspected twice a year. Rectifiers are also remotely monitored to make sure they are functioning. When Colonial detects that a rectifier is not functioning, Colonial sends out a crew to fix it.

Colonial must replace pipeline coating periodically on older sections of the pipeline. Colonial estimates it digs up and replaces "thousands of feet a year of pipeline."

Environmental Permits

Colonial was issued environmental permits from DHEC and Spartanburg Water & Sewer Authority that are designated for "industrial activities" like petroleum bulk stations and terminals. Some of these permits have expired or are no longer in place. Colonial's permits include an NPDES General Permit for Storm Water Discharges Associated with Industrial Activities, SCR 000000 (September 1, 2016). Section 1.1.1 of the permit, Facilities Covered, states: "To be eligible to discharge under this permit, you must (1) have a storm water discharge associated with industrial activity from your primary industrial activity." The permit specifically references "industrial plant" as follows: "Storm Water Discharges Associated with Industrial Activity – the discharge

from any conveyance that is used for collecting and conveying storm water and that is directly related to manufacturing, processing or raw materials storage areas at an industrial plant."

CONCLUSIONS OF LAW

Standard of Review

This Court has jurisdiction over this case pursuant to section 12-60-460 of the South Carolina Code (2014) and section 1-23-600(A) of the South Carolina Code (Supp. 2020). This is a contested case, and it is heard *de novo*. *Be Mi, Inc. v. S.C. Dep't of Revenue,* 408 S.C. 290, 297, 758 S.E.2d 737, 740 (Ct. App. 2014) ("In reaching a decision in a contested violation matter, the ALC serves as the sole finder of face in the de novo contested case proceeding."); *Brown v. S.C. Dep't of Health & Envtl. Control,* 348 S.C. 507, 512, 560 S.E. 2d 410, 413 (2002) (explaining that a contested case before the ALC is "in the nature of a de novo hearing with the presentation of evidence and testimony"). The standard of proof is by a preponderance of the evidence. S.C. Code Ann. § 1-23-600(A)(5) (Supp. 2020); *see also Sierra Club v. S.C. Dep't of Health & Envtl. Control,* 426 S.C. 236, 257, 826 S.E.2d 595, 67 (2019). Generally, the complaining party bears the burden of proof. *Leventis v. Dep't of Health and Envtl. Control,* 340 S.C. 118, 132-33, 530 S.E. 2d 643, 651 (Ct. App. 2000). Therefore, Colonial has the burden to show by a preponderance of the evidence that the Department's decision was incorrect.

Construction of Tax Exemptions

South Carolina's tax exemption statutes are strictly construed against taxpayers. *See, e.g., CFRE, LLC v. Greenville Cty. Assessor,* 395 S.C. 67, 74, 716 S.E.2d 877, 881 (2011) (stating that South Carolina courts have a long-standing policy of "strictly construing tax exemption statutes against the taxpayer"). The burden is on the taxpayer to prove he is entitled to an exemption by bringing himself clearly within the conditions of the statute authorizing the exemption. *TNS Mills, Inc. v. S.C. Dep't of Revenue,* 331 S.C. 611, 618, 503 S.E.2d 471, 475 (1998) (citing *York Cty. Fair Assoc. v. S.C. Tax Comm'n,* 249 S.C. 337, 341, 154 S.E.2d 361, 363 (1967)); *see also Asmer v. Livingston,* 225 S.C. 341, 82 S.E.2d 465, 466 (1954) (stating that a refund of taxes is solely a matter of governmental grace, and taxpayers seeking such relief must bring themselves clearly within the terms of the statute authorizing a refund). This rule of strict construction "simply means that constitutional and statutory language will not be strained or liberally construed in the taxpayer's favor" and "[i]t does not mean that we will search for an interpretation in [DOR]'s favor

where the plain and unambiguous language leaves no room for construction." *CFRE*, 395 S.C. at 74–75, 716 S.E.2d at 881.[4]

Failure to Exhaust Administrative Remedies

The Counties make an unusual argument in this case. They argue that because Colonial failed to elicit a "department determination" from **DHEC** (as opposed to **DOR**/the Department), Colonial failed to exhaust its administrative remedies and this case is thus not properly before this Court. The Counties' argument is based on section 12-37-220(A)(8), which allows the Department to seek DHEC's expertise. It states, in relevant part:

> At the request of the Department of Revenue, the Department of Health and Environmental Control **shall investigate** the property of any manufacturer or company, eligible for the exemption [for pollution control equipment] to determine the portion of the property that qualifies as pollution control property. Upon investigation of the property, the Department of Health and Environmental Control **shall furnish** the Department of Revenue with a detailed listing of the property that qualifies as pollution control property.

§ 12-37-220(A)(8) (emphasis added). The Counties contend that when the Department requested a determination from DHEC pursuant to section 12-37-220(A)(8) as to whether the disputed property qualified as pollution control equipment, it relinquished to DHEC its authority to make this determination itself. The Counties further argue that when DHEC responded to the Department's request and disclaimed any authority to permit or review the disputed property, Colonial should have (1) challenged DHEC's and (2) forced DHEC to comply with their statutory duty to investigate and provide a detailed list of qualifying property. In effect, the Counties argue that before Colonial could challenge the Department's decision, it had to force DHEC to issue a department determination and exhaust its administrative remedies with DHEC.[5]

I conclude Colonial did not have to exhaust any administrative remedies with DHEC before challenging the Department's decision and coming before this Court. "The general rule is that administrative remedies must be exhausted absent circumstances supporting an exception to application of the general rule."[6] *Storm M.H. ex rel. McSwain v. Charleston Cty. Bd. of Trustees*, 400 S.C. 478, 487, 735 S.E.2d 492, 497 (2012). Importantly, the exhaustion principle applies to

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[4] It is also notable that the principle of strict construction is used to resolve issues of statutory interpretation not factual issues. The Court cannot use this principle to liberally or strictly "construe" facts for or against a taxpayer.

[5] The Counties do not cite any statute that specifically requires DOR or Colonial to exhaust any remedy with DHEC before seeking a contested case hearing at the Administrative Law Court.

[6] Notably, "[t]he doctrine of exhaustion of administrative remedies is generally considered a rule of policy, convenience and discretion, rather than one of law, and is not jurisdictional." *Ward v. State*, 343 S.C. 14, 17, 538 S.E.2d 245, 246 (2000) (quoting *Vaught v. Waites*, 300 S.C. 201, 387 S.E.2d 91 (Ct. App. 1989)).

the remedies available within the agency whose decision is challenged. *See Thomas Sand Co. v. Colonial Pipeline Co.*, 349 S.C. 402, 413, 563 S.E.2d 109, 115 (Ct. App. 2002) ("If this were an appeal from the denial of the permit through the administrative process in which DHEC was the appropriate fact finder, [Petitioner] would clearly be required to exhaust its administrative remedies prior to bringing suit. . . DHEC is not the appropriate fact finder to answer this question."). In this case, the Department, and not DHEC, ultimately decides whether the exemption is granted, and it is the Department from whom a remedy can be sought.

Specifically, nothing in section 12-37-220(A)(8) indicates the Department gives up its fact-finding or decision-making authority with regard to the exemption because it requests advice from DHEC.[7] *See Hodges v. Rainey*, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000) ("Under the plain meaning rule, it is not the court's place to change the meaning of a clear and unambiguous statute."). In fact, section 12-4-710 of the South Carolina Code (2014) provides the Department "shall determine if any property qualifies for exemption from local property taxes under Section 12-37-220 in accordance with the Constitution and general laws of this State." Thus, since the Department, not DHEC, has authority to grant or deny tax exemptions, the Department has discretion to accept or reject DHEC's advice after asking for its input. *See id.* And, since DHEC rendered an opinion that was clearly favorable to the taxpayer, Colonial, as the taxpayer, had no need to challenge DHEC's decision; rather, it was the Department's adverse decision on the ultimate issue of the exemption that triggered Colonial's need for administrative review.

Overall, the Court finds Colonial did not have a remedy through DHEC and, therefore, Colonial was not required to exhaust its administrative remedies with DHEC before proceeding with the Department's internal administrative process.[8] *See Thomas Sand Co.*, 349 S.C. at 413, 563 S.E.2d at 115 (holding that the doctrine of administrative remedies must be invoked as to the appropriate fact-finder who can provide the remedy sought).

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[7] Indeed, pursuant to section 12-37-220(A)(8), the Department can request that DHEC review "property of any manufacturer or company that is **eligible for the exemption**," which indicates the Department ultimately determines eligibility. (emphasis added).

[8] Presumably, the legislature allowed the Department to seek DHEC's opinion because DHEC is the regulatory body charged with protecting this State's environment from pollution. In this case, although DHEC acknowledged it does not generally regulate pipelines that transport petroleum, etc., its disclaimer did not suggest that its knowledge in this area was inadequate to render a helpful opinion. In other words, DHEC's lack of specialized knowledge in pipeline regulation does not undermine its ability to provide a more educated decision than the Department regarding what property may qualify as pollution control equipment.

DHEC's Letter

DHEC's letter to the Department dated August 27, 2018, shows it sufficiently fulfilled its obligations under section 12-37-220(A)(8) to investigate the disputed property and list which property it believed qualified as pollution control equipment.[9] In particular, DHEC's letter stated that in the context of USTs, which it regulates and which may contain petroleum products, DHEC would characterize pipeline cathodic protection, pipeline coatings, and automatic shut-off valves as pollution control equipment. After analyzing the disputed property more generally, DHEC further concluded for the purpose of the Department's request that the disputed property could be "fairly described as pollution control equipment."

The Counties argue DHEC did not fulfill its obligation under section 12-37-220(A)(8) because this statute describes an **affirmative** duty to physically investigate the claimed property at its location. The Counties' interpretation of section 12-37-220(A)(8) is contrary to the plain language of the statute. *See Hodges v. Rain*ey, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000) ("Where the statute's language is plain and unambiguous, and conveys a clear and definite meaning, the rules of statutory interpretation are not needed and the court has no right to impose another meaning."). Nothing in section 12-37-220(A)(8) qualifies the type of investigation DHEC must undertake. Moreover, under the facts of this case, it would be senseless to require DHEC to physically visit Colonial's property and, for example, dig up the pipeline where the automatic shut-off valve exists to investigate the valve. The nature of the property at issue in this case makes it appropriate to evaluate the property based on its type because there is no evidence to indicate that individual valve shut-off valves would have different and unique purposes other than their purpose as a type of property. Therefore, I find the Department's request to DHEC to investigate the three types of claimed property in this case was appropriate, and DHEC could sufficiently investigate the claimed property without viewing it *in situ* at Colonial's property.

In their Motion for Reconsideration, the Other Counties also object to this Court's consideration of DHEC's opinion about the disputed property because DHEC disclaimed any authority to regulate the disputed property.[10] The Other Counties likened this Court's consideration of DHEC's opinion to a court rendering a decision even though it does not have the authority to "opine on a dispute." Yet, simply because DHEC does not have authority to regulate

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[9] DHEC did not initially fulfill its obligation because it failed to offer an opinion about the disputed property in its first letter responding to the Department's request.

[10] Specifically, the Other Counties note that DHEC indicated "[DHEC] is unable to speak for those [federal] agencies with regard to the purpose of any specific requirements promulgated by those agencies."

pipelines does not mean it does not have the requisite expertise to determine whether property is pollution control equipment or not. In fact, in setting forth that DHEC shall respond to the Department's requests pursuant to section 12-37-220(A)(8), the legislature recognized DHEC's expertise as the government agency responsible for protecting public health and the environment in South Carolina. Moreover, this Court presided over a *de novo* hearing in this case and the Court has the authority, just like the Department had the authority, to determine the weight given to DHEC's opinion. *See Be Mi, Inc.*, 408 S.C. at 297, 758 S.E.2d at 740 ("In reaching a decision in a contested violation matter, the ALC serves as the sole finder of face in the de novo contested case proceeding."). Therefore, I reject the Other Counties' argument that this Court could not consider DHEC's opinion.

Pollution Control Equipment Exemption

Colonial disputes the Department's determination that its pipe coatings, cathodic protection system, and automatic shutoff value are not entitled to the exemption for pollution control equipment for tax years 2017 and 2018.[11] *See* § 12-37-200(A)(8).

The pollution control exemption exempts the following: "all facilities[12] or equipment of industrial plants which are designed for the elimination, mitigation, prevention, treatment, abatement, or control of water, air, or noise pollution, both internal and external, required by the state or federal government and used in the conduct of their business." § 12-37-220(A)(8).[13] The exemption can be split into four requirements. The first requirement is that the property for which

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[11] The Department initially found that some of Colonial's property qualified for the exemption. The Department contends that although its Government Services Division initially granted the exemption for some of Colonial's property, its analysis was limited to whether the property was used for pollution control, and it did not consider whether the property satisfied the first element of the exemption – whether the claimed property was a facility or equipment of an industrial plant. The Department now asserts that none of Colonial's property is eligible for the exemption because it is not property that is a facility or equipment of an industrial plant. *See* § 12-37-220(A)(8).

[12] Regulation 117-1700.5 defines a "facility" as follows:

> [G]enerally a single physical location, where a taxpayer's business is conducted or where its services or industrial operations are performed. Where two or more distinct and separate economic activities are performed at a single physical location, each separate economic activity will be treated as a separate facility when: (1) each activity has its own separate and dedicated personnel; (2) separate reports can be prepared on the numbers of employees, their wages and salaries, sales, or receipts and expenses; (3) and employment and output are significant as to the activity. For purposes of item (2) above, it is irrelevant if separate reports are actually prepared, so long as separate reports can be prepared, this criteria is met.

S.C. Code Regs. Ann. § 117-1700.5 (2012).

[13] Section 3 of Article X of the South Carolina Constitution likewise provides, in relevant part: "There shall be exempt from ad valorem taxation . . . (h) all facilities or equipment of industrial plants which are designed for the elimination, mitigation, prevention, treatment, abatement or control of water, air or noise pollution." S.C. Const. Art. X, § 3(h) (West 2020).

the exemption is sought constitutes "facilities or equipment of industrial plants." *Id.* The second requirement is that the facilities or equipment are designed for the "elimination, mitigation, prevention, treatment, abatement, or control of water, air, or noise pollution, both internal and external." *Id.* The third requirement is that the facilities or equipment be required by state or federal law and, finally, the fourth requirement is that he facilities or equipment be used in the conduct of the business. *Id.* The Court will address each requirement in turn.

Facilities or Equipment of Industrial Plants

The exemption is for "facilities or equipment" of "industrial plants." § 12-37-220(A)(8). The parties do not contest whether the disputed property qualifies as "facilities or equipment"; the issue is whether Colonial's operations constitute an "industrial plant." However, it is notable that the General Assembly distinguished the equipment from the facilities themselves.

Colonial argues their operations constitute an "industrial plant" under section 12-37-220(A)(8) because their "complex and dynamic" operations involving tank farms, pipelines, boosters, motors, injection equipment, and the processing of Transmix are industrial activities that collectively qualify as a "plant." Colonial thus contends that the definition of "plant" includes its, infrastructure, buildings, and pipeline that is necessary to carry on its industrial operations.

The Department concedes that Colonial's business can be described as "industrial" but argues none of Colonial's property qualifies as a "plant." The Department contends that a "plant" must have some form of production or output based upon its interpretation of the dictionary definitions of "industrial plant" and the "dual-purpose" portion of the exemption that refers to equipment used for "production." Because Colonial's business is transporting fuels from one point to another without engaging in any kind of production, the Department argues Colonial's business cannot constitute and industrial plant. The Department maintains transportation companies like Colonial are treated differently under the tax code than manufacturing companies and other companies that produce a product.[14]

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[14] At the summary judgement hearing, this Court determined the Department's interpretation is not entitled to deference because its position has changed during the course of this case. In its original determination in this case, the Department granted Colonial the Pollution Control Equipment Exemption for some of its property, but not for automatic shut-off valves, pipeline cathodic protection, and pipeline coatings. In other words, the Department had to initially determine Colonial's property was "facilities or equipment of industrial plants" or it could not have granted the exemption for any of Colonial's property. Later, in its amended pre-hearing statement, the Department changed its position to now argue none of Colonial's property qualifies for the exemption because none of it is "facilities or equipment of industrial plants." Because the Department's interpretation of "industrial plant" has changed during this case, the Department cannot show its interpretation is a long-standing administrative policy worthy of deference. *See Media Gen. Commc'ns, Inc. v. S.C. Dep't of Revenue*, 388 S.C. 138, 149, 694 S.E.2d 525, 530-31 (2010) ("An agency's long-standing interpretation of a statute is usually entitled to be given deference and should not be overruled

Aiken and the Other Counties similarly argue that the exemption was intended for companies engaged in industrial production, not a transportation company like Colonial.[15] They contend the term "industrial plant" must mean the physical location where goods or materials are actually and substantially produced (as opposed to a location where minor modifications to a product occur). Aiken and the Other Counties further argue that the meaning of "industrial plant" is ambiguous, and that ambiguity must be construed against Colonial.

There are no statutes or regulations defining "industrial plant" for the purpose of section 12-37-220(A)(8). In fact, it is difficult to find a definition of "industrial plant" in any statutory law in South Carolina. Moreover, the Department has never formally interpreted the meaning of the phrase "industrial plant." Indeed, Taylor Ingram, the Department's Utility Coordinator who reviewed Colonial's exemption request, could not articulate what the term "industrial plant" means or how it would apply to the property at issue. Therefore, the Court must first determine what "industrial plant" means. However, before the Court explores the specific meaning of the term "industrial plant," the language of the exemption statute indicates whether the legislature intended "industrial plant" to apply only to manufacturers or producers as Respondents' argue.

First, the language of the exemption statute itself signifies the exemption is not limited to manufacturers. In relevant part, section 12-37-220(A)(8) instructs DHEC to investigate "the property of any manufacturer **or company**." (emphasis added). In construing a statute, we presume that no word is superfluous or without meaning. *Sweat*, 379 S.C. at 377, 665 S.E.2d at 651 ("A statute should be so construed that no word, clause, sentence, provision or part shall be rendered surplusage, or superfluous . . . ." (citation omitted)). Therefore, the words "or company" must refer to a company that is separate and distinct from a "manufacturer" or the terms would be redundant.[16] Similarly, the Court disagrees with Respondent's contention that "company" refers to utilities. If the legislature intended "company" to refer only to utilities, it would have said so. *See, e.g.*, § 12-43-220(a)(1) (classifying and assessing ad valorem property taxation of "[a]ll real and personal property owned by or leased to **manufacturers** and utilities and used by the **manufacturer** or utility in the conduct of the business" at ten and one-half percent of the fair

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by a reviewing court in the absence of cogent reasons, but the interpretation will not be sustained if it contradicts a statute's plain language.").

[15] The Other Counties argue Colonial's pipelines are akin to wastewater collection pipes (which they would not classify as a "plant") rather than a sewage treatment plant or a manufacturer (which they would classify as plants). However, the Court cannot properly evaluate this comparison without impermissibly contemplating facts not before the Court.

[16] Colonial also argues that reading a manufacturing requirement into the definition of "plant" would render the term manufacturing plant redundant and meaningless.

market value of the property" (emphasis added)). It is reasonable to conclude the breadth of the word "company" is meant to compensate as many companies as possible for adhering to pollution control laws, and perhaps encourage even greater efforts.

Next, Respondents contend that the use of the word "production" in the language of section 12-37-220(A)(8), discussing dual-purpose property, reflects an intention by the legislature to limit the exemption to only property used for production. Section 12-37-220(A)(8) provides that "[f]or equipment that serves a dual purpose of **production** and pollution control," the value of the exemption is reduced based upon a formula (emphasis added). In construing the meaning of this provision, the Court "should not consider a particular clause in a statute as being construed in isolation, but should read it in conjunction with the purpose of the whole statute and the policy of the law." *Enos v. Doe*, 380 S.C. 295, 305, 669 S.E.2d 619, 623 (Ct. App. 2008). Reading section 12-37-220(A)(8) as a whole, it would be unreasonable to conclude the legislature would limit the exemption to producers in the last few sentences of the statute while wording the rest of the statute more broadly. Indeed, Respondents' interpretation would require the Court to fixate on the word "production" under the dual-purpose limitation and ignore the use of the word "company" in the same statutory provision. Rather, the legislature clearly recognized that not all pollution control equipment is solely used for that function. In instances in which the equipment is also used for production, the legislature determined an exemption was not authorized. Accordingly, viewing section 12-37-220(A)(8) as a whole, the word "production" does limit the type of business that can receive the exemption but rather limits the property that can receive the exemption.

Having established the statutory language of the exemption includes manufacturers or companies, the Court turns to the meaning of "industrial plant." Here, the legislature used the word "industrial" as an adjective to describe the nature of a "plant" that may receive the exemption. Therefore, in analyzing the meaning of the phrase "industrial plant," the Court must first determine whether Colonial operates a plant, and if so, whether that operation is industrial in nature.[17]

[17] The Department and Aiken took a similar approach and analyzed "industrial" and "plant" separately and then used those definitions to reach an overall meaning for "industrial plant." The Other Counties, however, did not cite any dictionary definitions but rather relied upon the definition of "industrial plant" found in 42 U.S.C.S. § 6326(5). This federal statute does not relate to property tax issues but rather relates to whether energy conservation measures and renewable-resource energy measures were eligible (on a national or regional basis) for financial assistance. I did not find this federal statute to be edifying in this case. Accordingly, I will not address the Other Counties' argument regarding this issue any further.

Plant

"Where a word is not defined in a statute, our appellate courts have looked to the usual dictionary meaning to supply its meaning." *Lee v. Thermal Eng'g Corp.*, 352 S.C. 81, 91–92, 572 S.E.2d 298, 303 (Ct. App. 2002). In Merriam-Webster's Online Dictionary, "plant" is defined as:

> a: the land, buildings, machinery, apparatus, and fixtures employed in carrying on a trade or an industrial business;
>
> b: a factory or workshop for the manufacture of a particular product also: POWER PLANT;
>
> c: the total facilities available for production or service;
>
> d: the buildings and other physical equipment of an institution.

Plant, MERRIAM-WEBSTER'S ONLINE DICTIONARY, https://www.merriam-webster.com/dictionary/plant (last visited February 8, 2021).

Respondents contend these four definitions support their assertion that Colonial's business is not an industrial plant because some of them reference production and manufacturing. In particular, the Department and Aiken contend the Court should adopt definition (b), which defines a "plant" as a factory or workshop that manufactures a particular product. Since Colonial does not produce or manufacture anything, definition (b) would exclude Colonial from being a "plant" in support of Respondents' position.

Merriam Webster's definitions illustrate the difficulty of interpreting the meaning of a statute when multiple definitions may be applicable. Definition (b) certainly describes **a** common meaning of "plant," but here the question is whether it **the most** applicable definition. To resolve this dilemma, the Court must consider which definition of "plant" the legislature most likely intended to apply in the context of the pollution control exemption statute, not which definition best fits the parties' theories of the case. *See S.C. Energy Users Comm. v. S.C. Pub. Serv. Comm'n*, 388 S.C. 486, 492, 697 S.E.2d 587, 590 (2010) ("Courts should not merely consider the language of the particular clause being construed, but the undefined word and its meaning in conjunction with the purpose of the whole statute and the policy of the law.").

Here, the most applicable and relevant definition to the statute is definition (a), which defines a "plant" to include the "land, buildings, machinery, apparatus, and fixtures employed in carrying on a trade or an industrial business." It is the most applicable not only because it incorporates the adjective "industrial," like section 12-37-220(A)(8), but this definition describes the common conception of a plant as a collection of land, fixtures, and equipment that are utilized

together, much like the statute refers to "facilities and equipment" of an industrial plant.[18] *See Liberty Mut. Ins. Co. v. S.C. Second Injury Fund*, 363 S.C. 612, 622, 611 S.E.2d 297, 302 (Ct. App. 2005) ("When faced with an undefined statutory term, the court must interpret the term in accord with its usual and customary meaning."); *Santee Cooper Resort v. South Carolina Pub. Serv. Comm'n*, 298 S.C. 179, 184, 379 S.E.2d 119, 122 (1989) ("Words used in a statute should be taken in their ordinary and popular significance unless there is something in the statute requiring a different interpretation.").

I find definition (b) to be inferior to sub-definition (a) because the pollution control exemption uses the phrase "industrial plant" and, although manufacturing can be a component of an industrial plant, the legislature did not restrict the use of the phrase to that function.[19] *See State v. Sweat*, 379 S.C. 367, 375, 665 S.E.2d 645, 650 (Ct. App. 2008), *aff'd as modified*, 386 S.C. 339, 688 S.E.2d 569 (2010) ("What a legislature says in the text of a statute is considered the best evidence of the legislative intent or will."). In particular, the legislature could have used the phrase "manufacturing plant" in section 12-37-220(A)(8) but did not.

The Court's determination that definition (a) is most applicable does not ignore the implication of definition (c). Indeed, definition (c) recognizes that the breadth of a plant includes the "total" facility not just for production but also for service. However, I conclude neither definitions (c) nor (d) are as appliable as definition (a) because they do not incorporate an industrial aspect or otherwise reflect the language of section 12-37-220(A)(8) as well as definition (a). In particular, nothing in section 12-37-220(A)(8) indicates the legislature intended the exemption to be for "institutions" as described in sub-definition (d).

The Court next turns to the word "industrial."

Industrial

In Merriam-Webster's Online Dictionary, "Industrial" is defined as "of or relating to industry." *Industrial*, MERRIAM-WEBSTER'S ONLINE DICTIONARY, https://www.merriam-webster.com/dictionary/industrial (last visited February 8, 2021). "Industry" is defined as:

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[18] Notably, the Court of Appeals of North Carolina relied on Merriam-Webster's definition (a) of "plant" to find that a small, unincorporated business that manufactured pallets qualified as a manufacturing "plant." *Richards v. Jolley*, 208 N.C. App. 436, 441, 703 S.E.2d 467, 470 (2010) (citing the definition of "plant" in Merriam–Webster's Collegiate Dictionary 948 (11th ed.2005)). Like in this case, the statute at issue in the North Carolina case did not define "plant." *See id.*

[19] Significantly, Chapter 28 of Title 12, which imposes user fees on gasoline and diesel fuel, including fuel at a "bulk plant." Section 12-28-110(7) defines "bulk plant" as "a motor fuel **storage and distribution facility** that is not a terminal and from which motor fuel may be removed at a rack." S.C. Code Ann. § 12-28-110(7) (Supp. 2019) (emphasis added). In the context of these user fees, it appears the legislature labeled a storage and distribution facility without a manufacturing component a "plant." *See id.*

a: manufacturing activity as a whole (the nation's industry);

b: a distinct group of productive or profit-making enterprises (the banking industry);

c: a department or branch of a craft, art, business, or manufacture (especially one that employs a large personnel and capital especially in manufacturing);

d: systematic labor especially for some useful purpose or the creation of something of value.

Industry, MERRIAM-WEBSTER'S ONLINE DICTIONARY, https://www.merriam-webster.com/dictionary/industry (last visited February 8, 2021).[20] It is unlikely that our legislature intended to adopt definition (a). Definition (a) refers to manufacturing "as a whole" in the context of the "nation's industry." This definition is thus too broad to refer to an exemption for a specific industry in South Carolina.

Definition (b) is also too broad because it would incorporate businesses, like banks, that would not be associated with an "industrial plant" in our common understanding. *See Santee Cooper Resort*, 298 S.C. at 184, 379 S.E.2d at 122 ("Words used in a statute should be taken in their ordinary and popular significance unless there is something in the statute requiring a different interpretation."). A business may be part of an industry without being an industrial plant, as explained by the Pennsylvania Supreme Court:

> By no stretch of the imagination could a bank building, a hotel, a theater or any of the other business establishments referred to by plaintiff be considered an industrial plant. It is true that we sometimes speak of 'the movie industry', 'the hotel industry' or 'the banking industry', but that is merely a loose use of language to convey that idea that the particular business is a sizeable one. In spite of that colloquialism, we do not speak of the buildings housing such businesses as 'industrial plants'. . . . The law can do no better than to define an industrial plant as that type of establishment which the ordinary man thinks of as such.

N. Side Laundry Co. v. Bd. of Prop. Assessment, Appeals & Review, Allegheny Cty., 366 Pa. 636, 639–40, 79 A.2d 419, 421 (1951).

On the other hand, definition (c) appears too narrow. Although definition (c) broadly recognizes that industry can include a "craft, art, business, **or** manufacture," it narrows the definition to a "department or branch" of one of those larger industries.

Ultimately, definition (d) is the most applicable to the statute at issue. Definition (d) is also broad, but it captures the essence of what happens at an industrial plant as commonly understood without specifically tying the definition to the "nation's industry" or non-applicable businesses like the banking industry. *See Liberty Mut. Ins. Co.*, 363 S.C. at 622, 611 S.E.2d at 302

[20] The American Heritage Dictionary (1993) contains similar definitions of "plant," "industrial," and "industry."

("When faced with an undefined statutory term, the court must interpret the term in accord with its usual and customary meaning.").[21] Indeed, although not directly related to taxes, our State's statutes governing the Public Service Commission defines the term "industrial user" to include businesses engaged in "processing" and other "related work," not just manufacturing and production. S.C. Code Ann. § 58-3-240(A)(3) ("Industrial user" means any person, corporation, or association which is engaged in the business of manufacturing, processing, assembling, fabricating, or related work.").

The Court nevertheless recognizes that defining "industry" as "systematic labor for some useful purpose" could, indeed, result in a very broad interpretation that would include many business enterprises that would not fit within the term "industrial plant," including banks or restaurants. However, in the context of the exemption at issue, "industrial" and "plant" must be read together. Therefore, the Court must examine whether Colonial's operations are the kind of business commonly understood to be an "industrial plant." But first, the Court will examine whether this State's broader statutory and regulatory scheme illuminates the meaning of "industrial plant" further.

State Statutory and Regulatory Scheme

Respondents argue this State's broader statutory and regulatory scheme shows the legislature intended the exemption to be limited to manufacturers and companies that produce something. Respondents focus on the fact that Colonial is classified as a transportation company rather than a manufacturer, utility, or some other kind of producer.[22] Indeed, article X, section 1 of the South Carolina Constitution (West 2020) and section 12-43-220 of the South Carolina Code (2014), distinguish, for property tax assessment purposes, transportation companies from manufacturing and utility companies. Specifically, they provide an assessment ratio for

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[21] Furthermore, Respondent's efforts to limit industry to manufacturing is inconsistent with the fact that pipelines are also an industry. For instance, the North American Industry Classification System (NAICS) includes pipelines as an industry. Office of Mgmt. & Budget, Exec. Office of the President, North American Industry Classification System (2017). The Other Counties referenced the North American Industry Classification System (NAICS) as the standard used by Federal statistical agencies in classifying business establishments. Other states have also used that classification system in analyzing businesses. *See Thoma v. Slinger*, 373 Wis. 2d 766, 895 N.W.2d 854, *aff'd sub nom. Thoma v. Vill. of Slinger*, 381 Wis. 2d 311, 912 N.W.2d 56 (2018); *von Erdmannsdorff v. Indiana Dep't of State Revenue*, 82 N.E.3d 952 (Ind. T.C. 2017); *Opinion of the Justices*, 69 So.3d 847 (Ala. 2011); *Horn v. Tandem Health Care of Fla., Inc.*, 862 So.2d 938, 940 (Fla. Dist. Ct. App. 2004). In fact, in determining the nature of a taxpayer's business, the North Carolina Supreme Court has consulted NAICS. *Midrex Techs., Inc. v. N.C. Dep't of Revenue*, 369 N.C. 250, 253, 794 S.E.2d 785, 789 (2016).

[22] Colonial conceded in its Motion for Reconsideration that it is a transportation company and not a manufacturer.

transportation companies of 9.5% compared to an assessment ratio of 10.5% for manufacturers.[23] Based on these provisions, Respondents argue transportation companies and manufacturing/utility companies are treated differently for property tax assessment purposes.[24]

While it is true that the legislature assesses manufacturers and transporters at different rates for property tax purposes, this does not signify that Colonial is excluded from the pollution control exemption because it is a transportation company. Looking at disparate assessment ratios does not capture the legislative purpose of the pollution control exemption, which presumably is to compensate those who are required to install equipment to prevent or minimize pollution. *See State v. Sweat*, 379 S.C. 367, 376, 665 S.E.2d 645, 650 (Ct. App. 2008), *aff'd as modified*, 386 S.C. 339, 688 S.E.2d 569 (2010) ("A statute as a whole must receive a practical, reasonable, and fair interpretation consonant with the purpose, design, and policy of the lawmakers."); *City of Columbia v. Niagara Fire Ins. Co.*, 249 S.C. 388, 391, 154 S.E.2d 674, 676 (1967) ("The true guide to statutory construction is not the phraseology of an isolated section or provision, but the language of the statute as a whole considered in the light of its manifest purpose."). Manufacturers and producers are not the only businesses that need to control pollution. The classification of Colonial's business as a transportation company should not preclude it from receiving the exemption if it meets the statutory requisites.

Respondents next point to regulation 117-1700 of the South Carolina Code of Regulations (2012) to support their conclusion that transportation companies are (1) treated differently than manufacturers and (2) cannot operate a "plant." Regulation 117-1700 was promulgated for property tax assessment purposes. Section 117-1700.4 defines "transportation companies" to

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[23] S.C. Const. Art. X, § 1(1) (West 2020) ("All real and personal property owned by or leased to manufacturers, utilities and mining operations and used by the manufacturer, utility or mining operation, in the conduct of such business shall be taxed on an assessment equal to ten and one-half percent of the fair market value of such property."); S.C. Const. Art. X, § 1(2) (West 2020) ("All real and personal property owned by or leased to companies primarily engaged in transportation for hire of persons or property and used by the company in the conduct of such business shall be taxed on an assessment equal to nine and one-half percent of the fair market value of such property."); S.C. Code Ann. § 12-43-220(a)(1) (2014) ("All real and personal property owned by or leased to manufacturers and utilities and used by the manufacturer or utility in the conduct of the business must be taxed on an assessment equal to ten and one-half percent of the fair market value of the property."); S.C. Code Ann. § 12-43-220(g) (2014) ("All real and personal property owned by or leased to companies primarily engaged in the transportation for hire of persons or property and used by such companies in the conduct of such business and required by law to be assessed by the department shall be taxed on an assessment equal to nine and one-half percent of the fair market value of such property.").

[24] Although the Department applies different assessment ratios to manufacturers/utilities and transportation companies, the Department appraises the property of pipelines similarly to utilities for valuation purposes. As authorized by section 12-4-540 of the South Carolina Code (2014), the Department uses the unit valuation method for certain companies including pipelines, railroads, and utilities. The unit valuation method allows the Department to consider a taxpayer's operations as a whole when valuing them for assessment purposes.

include "(1) Railroad companies; (2) **Pipeline companies**; and (3) Express companies." S.C. Regs. Ann. 117-1700.4 (2012) (emphasis added). A later section of the same regulation, section 117-1700.7, defines a "plant site" as:

> A plant site shall consist of all land contiguous to a plant which is related to the overall manufacturing operation. It shall include all land on which personal property is located including but not limited to the following: parking lots, manufacturing areas, buildings, landscaping, **piping**, railroad siding, docking, water sheds, ditching, pollution control facilities, pumping stations, wells, roads, water tanks, areas for ingress and egress, water storage facilities, and all other lands directly related to manufacturing. When possible, a plant site will be one contiguous parcel using legal and or natural boundaries.

S.C. Code Ann. Regs. 117-1700.7 (2012) (emphasis added). Respondents argue that, read together, these sections suggest that a "plant site" is limited to manufacturing site; moreover, a transportation company like Colonial, who is not a manufacturer, cannot operate a "plant site." Respondents further note that Reg. 117-1700.7 suggests plant sites constrained to contiguous piece of property and Colonial's pipelines cannot meet this definition.

Although Respondents are correct that Colonial's operations cannot meet the definition of "plant site" under Regulation 117-1700.7, I find this regulation is narrowly applied only to manufacturers by statute and therefore cannot be used to interpret the exemption at issue, which is not similarly limited to manufacturers. The only time the term "plant site" appears is in section 12-43-220(a)(3) of the South Carolina Code (2014). Section 12-43-220(a)(3) addresses whether office buildings are "used by the manufacturer" in the conduct of their business because they are "located on the premises of or contiguous to the **plant site of the manufacturer**." (emphasis added). Thus, the definition of "plant site" found in Regulation 117-1700.7 does not refer to plant sites generally or industrial plants, but to manufacturing plant sites specifically.[25] Also, neither Reg. 117-1700.4 nor Reg. 117-1700.7 provide that transportation companies cannot be engaged in both transportation and other business activities, such as processing or manufacturing. Indeed, the Department, as well as our courts, have clearly set forth that energy producing utilities may be classified as utilities yet recognized as manufacturers within the tax code. *See, e.g.*, S.C. Code Ann. § 12-43-220(a)(1) (2014) (classifying and assessing ad valorem property taxation of "[a]ll real and personal property owned by or leased to **manufacturers** and **utilities** and used by the manufacturer or utility in the conduct of the business" at ten and one-half percent of the fair market value of the property" (emphasis added)). And, in this case, the Court is not addressing the

[25] Even though Regulation 117-1700.7 does not apply, it is notable that the definition of "plant site" includes personal property containing "piping." Colonial's operations obviously include extensive piping.

assessment ratio but rather a specific exemption for a business's use of pollution control equipment.

Finally, Colonial argues that because it would qualify for industrial revenue bonds, it should qualify as an industrial plant. Under section 4-29-10(3) of the South Carolina Code (Supp. 2020), a "Project" eligible for industrial revenue bonds includes

> any land and any buildings and other improvements on the land including, without limiting the generality of the foregoing, water, sewage treatment and disposal facilities, air pollution control facilities, and all other machinery, apparatus, equipment, office facilities, and furnishings which are considered necessary, suitable, or useful by the following investors or any combination of them:
>
> (a) any enterprise for the manufacturing, processing, or assembling of any agricultural or manufactured products;
>
> (b) **any commercial enterprise engaged in storing, warehousing, distributing, transporting, or selling products of agriculture, mining, or industry**, or engaged in providing laundry services to hospitals, to convalescent homes, or to medical treatment facilities of any type, public or private, within or outside of the issuing county or incorporated municipality and within or outside of the State;

(emphasis added). Colonial would qualify for industrial bonds because it engages in the "commercial enterprise" of "storing, warehousing, distributing [and] transporting" refined petroleum, which is the product of industry. However, this statute does not define industrial plant and does not limit the distribution of industrial bonds to industrial plants. Therefore, while the statute may be suggestive with its breadth of application, it is not dispositive and was not considered as part of this Court's reasoning.

"Industrial Plant" Conclusion

I find the term "industrial plant" means the land, buildings, machinery, apparatus, and fixtures employed in carrying on a trade or an industrial business that uses systematic labor for some useful purpose. This "useful purpose" is often related to manufacturing or production but is not exclusively related to such. Processing is also a useful industrial function, and Colonial engages in processing, though processing is not its primary function. Colonial more broadly engages in an industry that is commonly considered "industrial." And, notably, the Department concedes Colonial's business is industrial in nature. The bigger issue in this case is whether Colonial's operation constitutes a "industrial **plant**."

Respondents contend Colonial's operation does not fit within the meaning of "industrial plant" because a "plant" must actually and substantially produce goods or materials. Aiken and

the Department argue the Court should have chosen the definitions of "industry" and "plant" that would have resulted in the following definition of "industrial plant": "the land, building, machinery, apparatus, and fixtures employed in carrying on manufacturing activity as a whole." However, to reach this definition Aiken and the Department ignored the part of the definition of "industry" that refers to "the nation's industry." *See Industry*, def. (a), MERRIAM-WEBSTER'S ONLINE DICTIONARY, https://www.merriam-webster.com/dictionary/industry (last visited February 8, 2021) (defining "industry" as "manufacturing activity as a whole (the nation's industry)"). The definition must be read in whole, not in pieces. The Court rejected this definition because "the nation's industry" is too broad. The Court finds the Department and Aiken's approach troubling. Reading out a portion of a definition to reach a favorable result would create a false definition and this is an approach the Supreme Court sought to avoid in *CFRE*. 395 S.C. at 74–75, 716 S.E.2d at 881 (2011) (holding strict construction "does not mean that we will search for an interpretation in [DOR]'s favor where the plain and unambiguous language leaves no room for construction.").

As set forth above, the dictionary definition of a "plant" includes the "machinery, apparatus, and fixtures" used in carrying on an industrial business. Nothing in this definition requires a plant to produce or manufacture something. Rather, the inclusion of machinery and fixtures shows that Colonial's equipment, such as pumps and pipelines, are consistent with the definition of "plant." Similarly, the modifying adjective "industrial" does not require that a plant produce goods or materials. Indeed, a plant can be "industrial" if it is engaged in business of, or relating to, systematic labor for some useful purpose. Further, as discussed above, nothing in section 12-37-220(a)(8) or the broader statutory or regulatory scheme restricts a "plant" to a manufacturing or production facility.

In its Motion for Reconsideration, Aiken nevertheless argues this Court's interpretation of "industrial plant" is too broad because this definition "could apply to almost any business activity." Respondents also argue that applying the exemption to all companies that are involved in "industry" would extend the application of the exemption beyond what the legislature intended. In particular, they argue Colonial is functionally no different than a railroad company, a trucking company, or a shipping company. Each of these companies transport petroleum products like Colonial and, also like Colonial, they have facilities and use equipment to contain the products they transport to protect their assets, prevent loss of product, and prevent environmental pollution. Based upon these similarities, Respondents argue that approval of the exemption in this case would open the door for railroads, trucking companies, and shipping companies to claim the exemption.

However, simply because the construction of the statute may allow other companies besides manufacturers and producers to utilize the pollution control exemption is not a reason to deny its use. In fact, it would be troubling for this Court to misconstrue this exemption to protect the government from the tax consequences of allowing businesses to lawfully utilize this exemption. Rather, the interpretation of section 12-37-220(A)(8) must be made based upon the language of the statute and not Respondents' concerns as to who may take advantage of its provisions. Moreover, since the purpose of the pollution control exemption is to reward the use of pollution control equipment, it is not unreasonable for the exemption to be broadly applicable since pollution is highly regulated. This conclusion is even more pertinent for a company like Colonial who transports products that are considered hazardous substances which could clearly cause pollution if not contained. *See* 49 C.F.R. § 195.2 (defining "hazardous liquid" to mean "petroleum, petroleum products, anhydrous ammonia, and ethanol or other non-petroleum fuel, including biofuel, which is flammable, toxic, or would be harmful to the environment if released in significant quantities").

Next, the Court must analyze whether Colonial's operations not only fit the technical definition of "industrial plant" but whether its operations meet the common understanding of what is an "industrial plant." This determination involves not just the dictionary meanings of the words "industrial" and "plant," but an application of what the common understanding of an industrial plant is to the facts in this case.

Colonial engages in an industry, petroleum or oil and gas, that is commonly considered "industrial." And, notably, the Department concedes Colonial's business is industrial in nature. In fact, Colonial employs a labor force and various equipment and machines that engage in systematic labor for a useful purpose: the transportation and distribution across South Carolina and the country. As part of the transportation process, Colonial also processes Transmix. Therefore, Colonial's operations are industrial in nature.

The bigger issue in this case is how much of Colonial's operation constitutes a "industrial **plant**." In particular, in this Court's previous summary judgement order, the Court concluded that at least part of Colonial's operations (for example, its tank farms) met the broad definition of "industrial plant" but questioned whether an industrial plant was constrained to one contiguous piece of land or whether a plant could extend beyond those confines. In other words, could pipelines that extend across the state be part of an industrial plant?

In viewing the evidence presented at the hearing, the Court finds Colonial's property—tank farms and pipelines and pump stations—work together as an integrated whole and should be

evaluated as a whole rather than piecemeal. This approach is consistent with the Department's position that the Court should look at the pipeline as a whole instead of zooming in on certain portions of it. This approach also accords with the Department's unit valuation method for pipeline companies, which values the business as a whole rather than considering individual pieces.

When evaluated as a whole, I conclude Colonial's operations constitute an industrial plant. Colonial's pipeline is part of an integrated infrastructure needed to carry on Colonial's industrial business. Even if the pipelines are not confined to a single piece of property, they are contiguous to each other and to the tank farms, booster stations, and pump stations. Indeed, of great significance to this Court is the evidence reflecting the complexity and interconnectivity of Colonial's pipeline operations. Colonial's pumps, motors, valves, manifolds, injection equipment, control systems, and other infrastructure all work together as an integrated unit to transport product through the pipes and to the tank farms. The "booster stations" along the pipelines increase pressure in the pipeline to facilitate movement of the product through the pipeline. Colonial also utilizes three pump stations on Lines 1 and 2, typically with four to five pumps per station, and there are pumps at the tank farms. Additionally, Colonial introduces DRA at its booster facilities, pump stations, tank farms, and stub lines to facilitate smoother and quicker transport. The design and expertise needed to properly inject DRA throughout the pipelines reflects the integrated aspect of Colonial's facilities and, thus, its operation as a plant. Indeed, these various integrated parts of Colonial's operations clearly meet Merriam Webster's definition of a "plant" as "the land, buildings, machinery, apparatus, and fixtures employed in carrying on a trade or an industrial business." *Plant*, MERRIAM-WEBSTER'S ONLINE DICTIONARY, https://www.merriam-webster.com/dictionary/plant (last visited February 8, 2021).

Moreover, as with the operation of many plants, Colonial's control room monitors the pipeline twenty-four hours a day. Every two weeks, Colonial also conducts an aerial inspection of the pipeline corridor by flying over the corridor in a plane. To ensure the product is safely transported, Colonial constantly measures gravity, pressure, and temperature of the products it transports. Equipment is also used to measure and detect leaks. Additionally, devices called "smart PIGS" are used to identify cracks and compromises in the pipeline.

Finally, Colonial addresses products mixing in its pipeline by using optical interface detectors to isolate Transmix. It then either sells the Transmix as a different grade, precisely injects it back into the pipeline, or, upon determining that it cannot use those methods to salvage the fuel, sells the products to an independent processor.

Thus, I find the operations, activities, and processes Colonial engages in not only meet the dictionary definitions of "industrial" and "plant," but they also incorporate the type of activities and materials one would commonly associate with an "industrial plant" based upon its customary meaning. *See Liberty Mut. Ins. Co.*, 363 S.C. at 622, 611 S.E.2d at 302 ("When faced with an undefined statutory term, the court must interpret the term in accord with its usual and customary meaning."). Therefore, I do not find that the term "industrial plant," as applied in this case, is ambiguous. Because I do not find it to be ambiguous, there is no need to strictly construe the exemption against Colonial.[26] *Hodges v. Rainey*, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000) ("Where the statute's language is plain and unambiguous, and conveys a clear and definite meaning, the rules of statutory interpretation are not needed and the court has no right to impose another meaning."); *see also Crescent Mfg. Co. v. Tax Comm'n*, 129 S.C. 480, __, 124 S.E. 761, 765 (1924) ("That rule of strict construction of . . . tax statutes is subordinate to the rule of reasonable, sensible construction, having in view effectuation of the legislative purpose, and does not prevent the courts from calling to their aid all the other rules of construction and giving each its appropriate scope, etc." (internal quotation marks and citations omitted)). Accordingly, the Court concludes Colonial's operations, as a whole, fit within the definition of "industrial plant."

Designed for Pollution Control

For the facilities or equipment of an industrial plant to qualify for the exemption, they must be "designed for the elimination, mitigation, prevention, treatment, abatement, or control of water, air, or noise pollution, both internal and external." § 12-37-220(A)(8). The exemption further provides that, "[a]t the request of the Department of Revenue, the Department of Health and Environmental Control shall investigate the property of any manufacturer or company, eligible for the exemption to determine the portion of the property that qualifies as pollution control property." *Id.* Further, [u]pon investigation of the property, the Department of Health and Environmental Control shall furnish the Department of Revenue with a detailed listing of the property that qualifies as pollution control property." *Id.* The exemption also envisions that facilities or equipment may have a dual use for both production and pollution control. *Id.* In these situations, "the value eligible for the ad valorem exemption is the difference in cost between this equipment

[26] In its Motion for Reconsideration, Aiken suggests the meaning of "industrial plant" in section 12-37-220(A)(8) is ambiguous because "the Court's own analysis of the term 'industrial plant' encompasses 13 pages of the Court's 33-page Order." However, simply because the Court has spent a meaningful amount of time addressing the Respondents' extensive arguments regarding the meaning of "industrial plant" does not mean that the phrase is ambiguous in the context of this case. Defining an undefined term necessarily takes some thought and discussion but an undefined term is not inherently ambiguous.

and equipment of similar production capacity or capability without the ability to control pollution." *Id.*

In this case, as provided by section 12-37-220(A)(8), the Department sought DHEC's input regarding whether pipelines coatings, cathodic protection, and automatic shutoff valves qualified as "pollution control property." In response, DHEC submitted a letter dated August 27, 2018 to the Department's Office of General Counsel acknowledging it did not regulate the items described, but opining that the pipe coatings, cathodic protection, and automatic shut-off valves could be fairly described as pollution control equipment. Specifically, the Department advised:

> Colonial has specifically listed three items purported to be pollution control equipment that remain at issue in the 2017 and 2018 property tax determination: (1) pipeline cathodic protection, (2) pipeline coatings, and (3) automatic shut-off valves. In the context of USTs, each of these technologies would be characterized by the Department as pollution control equipment. UST's are designed to store petroleum products, and corrosion protection is required for all UST systems to prevent petroleum releases into the environment. Cathodic protection is one method to meet the corrosion protection standard for USTs. Shear valves (considered an automatic shut-off valve) are installed to prevent, or limit the extent of, a petroleum release into the environment. Pipeline coatings are designed to isolate the pipeline to prevent corrosion. While releases from petroleum pipelines would not generally be directly to "water" but more likely to the ground surface, any release of sufficient size from a petroleum pipeline is likely to impact groundwater and may under certain conditions contribute contamination to surface waters via overland flow or groundwater seeps. Therefore, the Department believes the listed technologies can be fairly described as pollution control equipment.

As the Court discussed earlier, the Department had the authority to decide whether the property at issue qualified as pollution control equipment; therefore, the Department had discretion to consider DHEC's opinion and to give it whatever weight it saw fit. Nevertheless, Respondents contend DHEC's lack of regulatory authority impugns it ability to opine about the use of the disputed equipment. As already stated, although DHEC does not have regulatory authority over the property at issue, DHEC's staff presumably possesses expertise to evaluate whether the equipment serves a pollution control purpose. Indeed, this presumption is substantiated by the statute's explicit provision for DHEC's input. *See* § 12-37-220(A)(8). Therefore, DHEC's finding that the disputed property "can be fairly described as pollution control equipment" reflects that the property is designed for pollution control. Moreover, DHEC's finding was introduced into evidence and Respondents offered no evidence to dispute it. Furthermore, the fact the disputed property is required by federal law also suggests it serves a pollution control function.

In its Motion for Reconsideration, Colonial clarified it claimed the exemption only for repairs to the pipeline coating and cathodic protection system. Such repairs are required by federal

law. The recoating of the pipeline is an identifiable cost that serves a pollution control function because it helps prevent leaks. Similarly, repairs to the cathodic protection system help Colonial identify leaks and thus prevent product loss and pollution. Further, the automatic shutoff valve limits the extent of potential pollution by allowing Colonial to stop the flow of product through its pipeline upon detecting a leak or spill. Thus, DHEC's findings, along with the uncontroverted testimony from several of Colonial's witnesses, established that pipeline coatings, cathodic protection devices, and the automatic shutoff valve were designed, at least in part, for the elimination, mitigation, prevention, abatement or control of water and air pollution. *See* § 12-37-220(A)(8).

Required by State or Federal Law

Next, to qualify for the exemption the facilities or equipment must be "required by the state or federal government." § 12-37-220(A)(8). Colonial's witnesses testified all of the disputed property is required by federal regulation. And, indeed, the disputed items are required by federal law for pipeline facilities that transport hazardous liquids (petroleum) as follows:

Colonial Installations	**Pipeline Integrity Statutory Requirement**
Pipeline Coatings	49 C.F.R. § 195.557(a)
Cathodic Protection	49 C.F.R. § 195.563(a)
Automatic Shut-Off Valves	49 C.F.R .§ 195.260(a)

In general, 49 C.F.R. § 195 deals with regulating pipelines that transport hazardous liquids, which is defined to mean "petroleum, petroleum products, anhydrous ammonia, and ethanol or other non-petroleum fuel, including biofuel, which is flammable, toxic, or would be harmful to the environment if released in significant quantities." 49 C.F.R. § 195.2; *see also* 49 C.F.R. § 195.1. Pipeline coatings are required by federal law for submerged pipeline to prevent corrosion of the pipeline. 49 C.F.R. § 195.557(a). Corrosion can lead to large or small leaks in the pipes which allows the discharge of petroleum products into the air or water. The automatic shutoff valve allows Colonial to shut off or "control" a line in the event of leakage. Based on the above, I conclude the disputed property meets this requirement of the exemption.

Used in the Conduct of Business

Finally, to qualify for the exemption the facilities or equipment must be "used in the conduct of their business." § 12-37-220(A)(8). Colonial's witnesses testified at length regarding

how the pipeline coatings, cathodic protection devices, and automatic shut-off value at issue support Colonial's business operations. This testimony was uncontroverted. Therefore, I find the property at issue is used in the conduct of Colonial's business. I further conclude that Colonial meets all four requirements to qualify for the exemption. Accordingly, the only issue left for the Court to consider is whether the disputed property has a dual purpose.

Dual Purpose

Section 12-37-220(A)(8) provides that "[f]or equipment that serves a dual purpose of production **and** pollution control, the value eligible for the ad valorem exemption is the difference in cost between this equipment and equipment of similar production capacity or capability without the ability to control pollution." (emphasis added). The dual-purpose provision within section 12-37-220(A)(8) directly relates to the method of assessment of pollution control property when that property serves a dual purpose of production and pollution control. If the pollution control property is not used for production, then the special assessment described in this provision does not apply. Here, the equipment at issue is not used to produce a product. In fact, all the parties agree Colonial is not engaged in production. Therefore, the dual-purpose provision in inapplicable to the equipment at issue in this case.

CONCLUSION

I conclude Colonial's disputed pipeline coating repairs, cathodic protection, and automatic shut-off valve are (1) facilities and equipment of an industrial plant; (2) designed for the elimination, mitigation, prevention, treatment, abatement, or control of water, air, or noise pollution; (3) required by state or federal government; and (4) used in the conduct of Colonial's business. § 12-37-220(A)(8). Therefore, these disputed items meet the initial qualifications to receive the pollution control equipment exemption. *See id.* Furthermore, since the dual-purpose provision of the exemption is inapplicable, the exemption is justified for the pipeline coating repairs, cathodic protection repairs, and automatic shutoff valve because they clearly serve a pollution control function required by law.

ORDER

IT IS THEREFORE ORDERED that Petitioner's application for the pollution control exemption for pipeline coating repairs is GRANTED for the 2017 and 2018 tax years.

IT IS FURTHER ORDERED that Petitioner's application for the pollution control exemption for cathodic protection repairs is GRANTED for the 2017 and 2018 tax years.

IT IS FURTHER ORDERED that Petitioner's application for the pollution control exemption for the automatic shut-off valve is GRANTED for the 2017 and 2018 tax years.

AND IT IS SO ORDERED.

Ralph King Anderson, III
Chief Administrative Law Judge

February 9, 2021
Columbia, South Carolina

CERTIFICATE OF SERVICE

I, Stephanie Perez, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof in the United States mail, postage paid, or by electronic mail, to the address provided by the party(ies) and/or their attorney(s).

Stephanie Perez
Judicial Law Clerk

February 9, 2021
Columbia, South Carolina