

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BOULEVARD
LENEXA, KANSAS 66219

In the Matter of:

Clean Harbors Environmental
Services, Inc.,

Respondent.

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Docket No. RCRA-07-2024-0017

CONSENT AGREEMENT AND FINAL ORDER

PRELIMINARY STATEMENT

The U.S. Environmental Protection Agency (EPA), Region 7 (“Complainant”) and Clean Harbors Environmental Services, Inc., (“Respondent”) have agreed to a settlement of this action before the filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 Code of Federal Regulations (“C.F.R.”) §§ 22.13(b) and 22.18(b)(2).

ALLEGATIONS

Jurisdiction

1. This administrative action is being conducted pursuant to Section 3008(a) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (“RCRA”), and the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. § 6928(a), and in accordance with the Consolidated Rules of Practice.

Parties

2. Complainant is the Director of the Enforcement and Compliance Assurance Division, Region 7, as duly delegated by the Administrator of EPA.

3. Respondent is Clean Harbors Environmental Services, Inc., a corporation organized under the laws of Massachusetts and authorized to operate under the laws of Nebraska.

Statutory and Regulatory Framework

4. RCRA was enacted to address the volumes of municipal and industrial solid waste generated nationwide in order to protect human health and the environment from potential hazards of waste disposal, conserve energy and natural resources, reduce the amount of waste generated, and ensure that wastes are managed in an environmentally sound manner.

5. RCRA provides guidelines for a waste management program and provides EPA with the authorities found in Sections 3002, 3003, 3004, and 3005 of RCRA, 42 U.S.C. §§ 6922, 6923, 6924, and 6925, to develop and promulgate specific requirements in order to implement the waste management program. Pursuant to these authorities, EPA promulgated the waste management regulations found at 40 C.F.R. Parts 260 and 262 through 264.

6. Section 3002 of RCRA, 42 U.S.C. § 6922, requires the Administrator to promulgate regulations establishing such standards applicable to generators of hazardous waste identified or listed under this subchapter, as may be necessary to protect human health and the environment.

7. Section 3003 of RCRA, 42 U.S.C. § 6923, requires the Administrator to promulgate regulations establishing such standards, applicable to transporters of hazardous waste identified or listed under this subchapter, as may be necessary to protect human health and the environment.

8. Section 3004 of RCRA, 42 U.S.C. § 6924, requires the Administrator to promulgate regulations establishing such performance standards, applicable to owners and operators of facilities for the treatment, storage, or disposal of hazardous waste identified or listed under this subchapter, as may be necessary to protect human health and the environment.

9. Section 3005 of RCRA, 42 U.S.C. § 6925, requires the Administrator of EPA to promulgate regulations requiring each person owning or operating an existing facility or planning to construct a new facility for the treatment, storage, or disposal of hazardous waste identified or listed under this subchapter to have a permit.

10. Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), defines “person” as an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body and shall include each department, agency, and instrumentality of the United States.

11. The regulation at 40 C.F.R. § 260.10 defines “facility” to include all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste, or for managing hazardous secondary materials prior to reclamation. A facility may consist of several treatment, storage or disposal operational units (e.g. one or more landfills, surface impoundments, or combinations of them).

12. The regulation at 40 C.F.R. § 260.10 defines “treatment” as any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste, or so as to recover energy or material resources from the waste, or so as to render such waste non-hazardous, or less hazardous; safer to transport, store, or dispose of; or amendable for recovery, amendable for storage, or reduced in volume.

13. The regulation at 40 C.F.R. § 260.10 defines “storage” as the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.

14. The regulation at 40 C.F.R. § 260.10 defines “disposal” as the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constitute thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

15. “Solid waste” is defined at 40 C.F.R § 261.2.

16. “Hazardous waste” is defined at 40 C.F.R. § 261.3.

17. The regulation at 40 C.F.R. § 260.10 defines “generator” as any person, by site, whose act or process produces hazardous waste identified or listed in part 261 of this chapter or whose act first causes a hazardous waste to become subject to regulation.

18. The regulation at 40 C.F.R. § 260.10 defines “large quantity generator” as a generator who generates greater than or equal to 1,000 kilograms (2,200 pounds) of non-acute hazardous waste or greater than 1 kilogram (2.2 pounds) of acute hazardous waste listed in 40 C.F.R. §§ 261.31 or 261.33(e).

19. The regulation at 40 C.F.R. § 260.10 defines “container” as any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

20. The regulation at 40 C.F.R. § 260.10 defines “EPA identification number” to mean the number assigned by EPA to each generator, transporter, and treatment, storage, or disposal facility.

21. The regulation at 40 C.F.R. § 260.10 defines “operator” to mean the person responsible for the overall operation of a facility.

22. The regulation at 40 C.F.R. § 260.10 defines “owner” to mean the person who owns a facility or part of a facility.

23. The State of Nebraska has been granted authorization to administer and enforce a hazardous waste program pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, and the State of Nebraska has adopted by reference the federal regulations cited herein at pertinent parts of the

Nebraska Administrative Code, Title 128 – Rules and Regulations Governing Hazardous Waste Management (hereinafter “128 N.A.C.”). Section 3008 of RCRA, 42 U.S.C. § 6928, authorizes the EPA to enforce the provisions of the authorized State program and the regulations promulgated thereunder.

24. Pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), whenever on the basis of any information the EPA determines that any person has violated or is in violation of any requirement of RCRA, the EPA may issue an order assessing a civil penalty for any past or current violation and/or require immediate compliance or compliance within a specified time period.

25. Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), authorizes a civil penalty of not more than \$25,000 per day for each violation. The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, 28 U.S.C. § 2461, and implementing regulations at 40 C.F.R. Part 19, increased these statutory maximum penalties to \$37,500 for violations that occurred before November 2, 2015, and to \$117,468 for violations that occur after November 2, 2015, and for which penalties are assessed on or after January 6, 2023. In assessing any such penalty, EPA must take into account the seriousness of the violation and any good faith efforts to comply with applicable requirements. Based upon the facts alleged in this Consent Agreement and Final Order, and upon those factors which Complainant must consider pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), Complainant and Respondent agree to the payment of a civil penalty pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), and to take the actions required by the Final Order, for the violations of RCRA alleged in this Consent Agreement and Final Order.

General Factual Background

26. Respondent is a corporation and authorized to conduct business within the State of Nebraska. Respondent is a “person” as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

27. Respondent owns and operates a treatment, storage, and disposal and hazardous waste transfer facility located at 2247 South Highway 71, Kimball, Nebraska 69145 (the “Facility”). Respondent’s facility includes a fluidized bed incinerator, ash monofill, and stormwater pond areas. Respondent employs approximately 200 employees at the Facility and operates the Facility 24 hours per day, 7 days per week. Respondent is a Large Quantity Generator of hazardous waste and a used oil generator.

28. Effective September 22, 2022, and pursuant to the Nebraska Environmental Protection Act, Neb. Rev. Stat. §§81-1501 through 81-1533, regulations promulgated thereunder by the Nebraska Department of Environment and Energy (“NDEE”), and Section 3005 of RCRA, Respondent renewed its Hazardous Waste Management Facility Permit (the “2022 Permit”) for the Facility.

29. NDEE had previously renewed Part I of Respondent's Permit on December 1, 2015 (the "2015 Part I Permit"). The EPA had previously renewed Part II of Respondent's Permit on May 29, 2009 (the "2009 Part II Permit").

30. Respondent's Facility has received an EPA ID Number of NED981723513.

31. On or about September 28-29, 2021, August 23-25, 2022, and April 25-27, 2023, EPA inspectors conducted RCRA Compliance Evaluation Inspections (collectively, the "Inspections") of the hazardous waste management practices at Respondent's facility.

Violations

32. Complainant hereby states and alleges that Respondent has violated RCRA and the federal regulations promulgated thereunder, as follows:

Count 1 **Failure to Adequately Manage Containers**

33. Complainant hereby incorporates the allegations contained in Paragraphs 1 through 31 above, as if fully set forth herein.

Prevention of Container Rupture or Leak

34. Pursuant to 2015 Part I Permit Condition III.F.2 and 2022 Permit Condition E.6.a, incorporating 128 N.A.C. Ch. 21, Sec. 009 and 40 C.F.R. § 264.173, a container holding hazardous waste was required to not be opened, handled, or stored in a manner that may rupture the container or cause it to leak.

35. During the 2021 Inspection, EPA personnel observed instances of stacked, uneven pallets holding hazardous waste containers, hazardous waste containers partly hanging off pallets, and containers stored unevenly on pallets existed in "Area 25" of Respondent's Facility.

36. During the 2023 Inspection, EPA personnel observed two 55-gallon drums of hazardous waste being stored in such a way that they were being crushed underneath another pallet of containers in "Area 25" of Respondent's Facility.

37. Respondent's failures to maintain containers holding hazardous waste so as to not cause rupture or leak are violations of 2015 Part I Permit Condition III.F.2, 2022 Permit Condition E.6.a, 128 N.A.C. Ch. 21, Sec. 009, and 40 C.F.R. § 264.173.

Maintenance of Adequate Aisle Space

38. Pursuant to 2015 Part I Permit Condition II.I.4.a, incorporating 128 N.A.C. Ch. 21, Sec. 003 and 40 C.F.R. § 264.35, Respondent was required to maintain an adequate aisle space to allow unobstructed movement of personnel, fire protection equipment, spill control

equipment, and decontamination equipment to any area of the Facility. The minimum required aisle space was two (2) feet.

39. During the 2021 Inspection, pallets and containers were measured by EPA personnel within 18 inches of adjoining rows of pallets and containers in “Area 25” of Respondent’s Facility.

40. Respondent’s failure to maintain adequate aisle space is a violation of 2015 Part I Permit Condition III.F.2, 128 N.A.C. Ch. 21, Sec. 003, and 40 C.F.R. § 264.35.

Count 2
Failure to Minimize Releases of Hazardous Waste to the Environment

41. Complainant hereby incorporates the allegations contained in Paragraphs 1 through 31 above, as if fully set forth herein.

Clean Up of Leaks or Spills

42. Pursuant to 2015 Part I Permit Condition II.F.6, incorporating 40 C.F.R. § 264.175(b)(5), Respondent was required to clean up any leaks or spills within twenty-four (24) hours at all of the permitted and unpermitted hazardous waste management areas.

43. Pursuant to 2015 Part I Permit Condition III.D and 2022 Permit Condition E.4, incorporating 40 C.F.R. § 264.171, Respondent was required to transfer the hazardous waste of any container that was severely rusted, had apparent structural defects, or had begun to leak, to a container that was in good condition or to place the leaking container in an overpack or otherwise manage the waste in compliance with the conditions of the permit within twenty-four (24) hours.

44. During the 2021 Inspection, EPA personnel observed the storage of three hazardous waste containers in “Area 25” of Respondent’s Facility that had been leaking for a period of time exceeding twenty-four hours.

45. During the 2021 Inspection, EPA personnel observed approximately 18” by 18” spot of hazardous waste on the floor underneath the coliwasa sampler storage tube in “Area 20” of Respondent’s Facility that had existed for a period of time exceeding twenty-four hours. Other instances of smaller spots of hazardous waste spillage were also observed on the floor of “Area 20.”

46. During the 2021 Inspection, EPA personnel observed stains from sample port leaks that had existed for a period of time exceeding twenty-four hours on the floor of the secondary containment for Respondent’s North “Tank Farm.”

47. During the 2023 Inspection, EPA personnel observed four 55-gallon drums storing hazardous waste in “Area 25” of Respondent’s Facility that had been leaking for a period of time exceeding twenty-four hours.

48. Respondent's failures to remedy the leaking containers and clean up the spills on the floor of Respondent's Facility within twenty-four hours are violations of 2015 Part I Permit Condition II.F.6, 2022 Permit Condition E.4, and 40 C.F.R. § 264.175(b)(5).

Storage of Hazardous Waste in Tanks without Detectable Organic Emissions

49. Pursuant to 2009 Part II Permit Condition IV.C.2.a(iii)(2), all tanks which contained hazardous waste with an average volatile organic concentration greater than 500 parts per million by weight were subject to 40 C.F.R. Part 264, Subpart CC. If the pressure in the vapor headspace underneath a tank opening's fixed roof was equal to or greater than atmospheric pressure when the control device was operating, the tank was required to utilize a closure device that was designed to operate with no detectable organic emissions.

50. During the 2022 Inspection, EPA personnel detected organic emissions emanating from three tanks storing hazardous waste with an average volatile organic concentration greater than 500 parts per million by weight in "Area 58" of Respondent's Facility.

51. Respondent's failure to store hazardous waste with an average volatile organic concentration greater than 500 parts per million by weight in tanks without detectable organic emissions is a violation of 2009 Part II Permit Condition IV.C.2.

Count 3

Failure to Maintain Air Emission Controls

52. Complainant hereby incorporates the allegations contained in Paragraphs 1 through 31 above, as if fully set forth herein.

53. Pursuant to 2015 Part I Permit Condition V.I, Respondent was required to comply with all applicable requirements under 40 C.F.R. Part 264, Subpart BB, as incorporated by 128 N.A.C. Ch. 21, Sec. 020, pertaining to air emission standards for equipment ancillary to the incinerator which were not ancillary to other waste management units.

54. Pursuant to 2015 Part I Permit Condition III.K.1 and 2022 Permit Condition G.1, incorporating 40 C.F.R. § 264.1050(d), each piece of equipment subject to Subpart BB regulation was required to be marked in such a manner that it could be distinguished readily from other pieces of equipment.

55. During the 2021 Inspection, EPA personnel observed four pipe connections on the Facility's thermal oxidizer unit associated with valves that were missing monitoring tags or identifying marks.

56. During the 2023 Inspection, EPA personnel observed one valve connected to the thermal oxidizer unit that was missing a monitoring tag or identifying mark.

57. Respondent's failures to mark each piece of equipment subject to Subpart BB

regulation in such a manner that they could be distinguished readily from other pieces of equipment are violations of 2015 Part I Permit Conditions III.K.1 and V.I, 2022 Permit Condition G.1, and 40 C.F.R. § 264.1050(d).

Count 4
Failure to Maintain and Operate Building as Tested

58. Complainant hereby incorporates the allegations contained in Paragraphs 1 through 31 above, as if fully set forth herein.

59. Pursuant to 2015 Part I Permit Condition IV.E.8, the “Area 50C” total enclosure at Respondent’s Facility was required to be vented in accordance with 40 C.F.R. § 52.741 using its associated closed vent system.

60. Pursuant to Permit Condition IV.L.2, Respondent was required to perform an annual Procedure T certification test of the “Area 50C” total enclosure.

61. At the time of the 2021 Inspection, three overhead doors of the Facility’s “Area 50C” total enclosure were not completely closed, with daylight being observed underneath each of the doors.

62. At the time of the 2022 Inspection, the EPA inspector observed natural draft openings at the “Area 50C” total enclosure as well as damaged foundation.

63. Openings in the “Area 50C” total enclosure were not present during the mandatory Procedure T testing in 2021 or 2022.

64. Respondent’s failures to maintain and operate the “Area 50C” total enclosure as tested are violations of 2015 Part I Permit Conditions IV.E.8 and IV.L.2.

Count 5
Failure to Transit Waste within 10-Day Limit

65. Complainant hereby incorporates the allegations contained in Paragraphs 1 through 31 above, as if fully set forth herein.

66. Pursuant to 128 N.A.C. Ch. 11, Sec. 005 and 40 C.F.R. § 263.12, a transporter who stores manifested shipments of hazardous waste in containers meeting the requirements of 128 N.A.C. Ch. 10, Sec. 003.01A and 40 C.F.R. § 262.30 at a transfer facility for a period of ten (10) days or less is exempt from complying with Parts 264, 265, 267, 268, and 270 of RCRA with respect to the storage of those wastes.

67. At the time of the 2022 and 2023 Inspections, Respondent had not obtained a hazardous waste storage permit under Part 264 or interim status under Part 265 of RCRA for its transfer facility.

68. During the 2022 and 2023 Inspections, EPA personnel reviewed Respondent's manifests for shipments of hazardous waste and found instances where Respondent had stored hazardous waste at its transfer facility for a period of time exceeding ten days.

69. Respondent's failures to transfer shipments of hazardous waste within ten days without obtaining a hazardous waste storage permit or interim status are violations of 128 N.A.C. Ch. 11, Sec. 005 and 40 C.F.R. § 263.12.

Count 6
Failure to Obtain Hazardous Waste Storage Permit

70. Complainant hereby incorporates the allegations contained in Paragraphs 1 through 31 above, as if fully set forth herein.

71. Pursuant to 128 N.A.C. Ch. 10, Sec. 004.01, a large quantity generator of hazardous waste may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status provided that it meets the conditions for exemption enumerated in Secs. 004.01A – 004.01H.

72. At the time of the 2022 and 2023 Inspections, Respondent was a large quantity generator and storing hazardous waste for less than 90 days in "Area A" and "Area C" of its Facility without obtaining a hazardous waste storage permit or interim status.

73. Section 004.01A1 of 128 N.A.C. Ch. 10, states that if a hazardous waste is placed in containers and the container is not in good condition or begins to leak, the generator must transfer the hazardous waste to a container that is in good condition or manage the waste in some other way that complies with the requirements of Chapter 10.

74. During the 2022 Inspection, EPA personnel found a roll-off container of hazardous waste in "Area C" of Respondent's Facility that had a broken tension strap and which was not fully closed.

75. During the 2023 Inspection, EPA personnel observed that a 40-yard roll-off container of hazardous waste in "Area A" of Respondent's Facility was leaking at its tailgate.

76. Sections 004.01F and G of 128 N.A.C. Ch. 10, states that the date upon which each period of accumulation begins must be clearly marked and visible for inspection on each container storing hazardous waste.

77. Section 004.01G of 128 N.A.C. Ch. 10, states that, while being accumulated on-site, each container and tank containing hazardous waste must be labeled or marked clearly with the words "Hazardous Waste."

78. During the 2023 Inspection, EPA personnel observed two hazardous waste containers in "Area A" of Respondent's Facility which were not labeled with the words "Hazardous Waste" or with an accumulation start date.

79. Respondent's failures to meet the conditions for exemption without obtaining a hazardous waste storage permit or interim status are violations of 128 N.A.C. Ch. 10, Sec. 004.01.

CONSENT AGREEMENT

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

- (a) admits the jurisdictional allegations set forth herein;
- (b) neither admits nor denies the specific factual allegations stated herein;
- (c) consents to the assessment of a civil penalty, as stated herein;
- (d) consents to the issuance of any specified compliance or corrective action order;
- (e) consents to any conditions specified herein;
- (f) consents to any stated Permit Action;
- (g) waives any right to contest the allegations set forth herein; and
- (h) waives its rights to appeal the Final Order accompanying this Consent Agreement.

81. Respondent consents to the issuance of this Consent Agreement and Final Order and consents for the purposes of settlement to the payment of the civil penalty specified herein.

82. Respondent and EPA agree to the terms of this Consent Agreement and Final Order and Respondent agrees to comply with the terms specified herein.

83. Respondent and EPA agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorneys' fees.

84. Respondent consents to receiving an electronic copy of the filed Consent Agreement and Final Order at the following email address:

fitzpatrick.timmery@cleanharbors.com.

Penalty Payment

85. Respondent agrees that, in settlement of the claims alleged herein, Respondent shall pay a civil penalty of Two Hundred Seventy Thousand Four-Hundred Twelve dollars (\$270,412) as set forth below.

86. Respondent shall pay the penalty within thirty (30) days of the effective date of the Final Order. Such payment shall identify Respondent by name and docket number and shall be by certified or cashier's check made payable to the "United States Treasury" and sent to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979078
St. Louis, Missouri 63197-9000

or by alternate payment method described at <http://www.epa.gov/financial/makepayment>.

87. A copy of the check or other information confirming payment shall simultaneously be emailed to the following:

Regional Hearing Clerk
R7_Hearing_Clerk_Filings@epa.gov; and

Sam Bennett, Attorney
bennett.sam@epa.gov.

88. Respondent understands that its failure to timely pay any portion of the civil penalty may result in the commencement of a civil action in Federal District Court to recover the full remaining balance, along with penalties and accumulated interest. In such case, interest shall begin to accrue on a civil or stipulated penalty from the date of delinquency until such civil or stipulated penalty and any accrued interest are paid in full. 31 C.F.R. § 901.9. Interest will be assessed at a rate of the United States Treasury Tax and loan rates in accordance with 31 U.S.C. § 3717. Additionally, a charge will be assessed to cover the costs of debt collection including processing and handling costs, and a non-payment penalty charge of six (6) percent per year compounded annually will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. 31 U.S.C. § 3717(e)(2).

Effect of Settlement and Reservation of Rights

89. Full payment of the penalty proposed in this Consent Agreement shall only resolve Respondent's liability for federal civil penalties for the violations alleged herein. Complainant reserves the right to take any enforcement action with respect to any other violations of RCRA or any other applicable law.

90. The effect of settlement described in the immediately preceding paragraph is conditioned upon the accuracy of Respondent's representations to the EPA, as memorialized in paragraph directly below.

91. Respondent certifies by the signing of this Consent Agreement and Final Order that, to the best of its knowledge, it is presently in compliance with all requirements of RCRA,

42 U.S.C. § 6901 *et. seq.* and its implementing regulations, Nebraska Hazardous Waste Regulations, Title 128, and any permit issued pursuant to RCRA and the Nebraska Environmental Protection Act.

92. Full payment of the penalty proposed in this Consent Agreement shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Consent Agreement and Final Order does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of RCRA and regulations promulgated thereunder.

93. Notwithstanding any other provision of this Consent Agreement and Final Order, EPA reserves the right to enforce the terms and conditions of this Consent Agreement and Final Order by initiating a judicial or administrative action under Section 3008 of RCRA, 42 U.S.C. § 6928, and to seek penalties against Respondent in an amount not to exceed Seventy Thousand Seven Hundred Fifty-Two Dollars (\$70,752) per day, per violation, pursuant to Section 3008(c) of RCRA, for each day of non-compliance with the terms of this Consent Agreement and Final Order, or to seek any other remedy allowed by law.

94. Except as expressly provided herein, nothing in this Consent Agreement and Final Order shall constitute or be construed as a release from any claim (civil or criminal), cause of action, or demand in law or equity by or against any person, firm, partnership, entity, or corporation for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from Respondent's facility.

95. Notwithstanding any other provisions of the Consent Agreement and Final Order, an enforcement action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should EPA find that the handling, storage, treatment, transportation, or disposal of solid waste or hazardous waste at Respondent's facility may present an imminent and substantial endangerment to human health and the environment.

96. Nothing contained in this Consent Agreement and Final Order shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, state, and local environmental statutes and regulations and applicable permits.

General Provisions

97. By signing this Consent Agreement, the undersigned representative of Respondent certifies that they are fully authorized to execute and enter into the terms and conditions of this Consent Agreement and has the legal capacity to bind the party they represent to this Consent Agreement.

98. This Consent Agreement shall not dispose of the proceeding without a final order from the Regional Judicial Officer or Regional Administrator ratifying the terms of this Consent Agreement. This Consent Agreement and Final Order shall be effective upon filing by the

Regional Hearing Clerk for EPA, Region 7. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

99. The penalty specified herein shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal, State and local taxes.

100. This Consent Agreement and Final Order shall apply to and be binding upon Respondent and Respondent's agents, successors and/or assigns. Respondent shall ensure that all contractors, employees, consultants, firms, or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this Consent Agreement and Final Order.

101. The headings in this Consent Agreement and Final Order are for convenience of reference only and shall not affect interpretation of this Consent Agreement and Final Order.

102. This Consent Agreement and Final Order shall be deemed terminated upon written notice by Complainant that Respondent has fully implemented the actions required in this Final Order.

COMPLAINANT:

U.S. ENVIRONMENTAL PROTECTION AGENCY

David Cozad
Director
Enforcement and Compliance Assurance Division

Date

Sam Bennett
Office of Regional Counsel

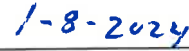
Date

RESPONDENT:

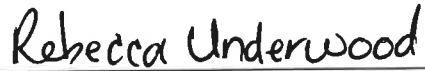
CLEAN HARBORS ENVIRONMENTAL SERVICES, INC.



Signature



Date



Printed Name



Title

FINAL ORDER

Pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22, the foregoing Consent Agreement resolving this matter is hereby ratified and incorporated by reference into this Final Order.

Respondent is ORDERED to comply with all of the terms of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(b), the effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

IT IS SO ORDERED.

Karina Borrromeo
Regional Judicial Officer

Date

CERTIFICATE OF SERVICE

I certify that that a true and correct copy of the foregoing Consent Agreement and Final Order in the matter of Clean Harbors Environmental Services, Inc., EPA Docket No. RCRA-07-2024-0017, was sent this day in the following manner to the addressees:

Copy via Email to Complainant:

Sam Bennett
Office of Regional Counsel
bennett.sam@epa.gov

Edwin Buckner
Enforcement and Compliance Assurance Division
buckner.edwin@epa.gov

Milady Peters
Office of Regional Counsel
Peters.milady@epa.gov

Copy via Email to Respondent:

Timmery Fitzpatrick
Clean Harbors Environmental Services, Inc.
PO Box 9149
42 Longwater Drive
Norwell, MA 02061-9149
fitzpatrick.timmery@cleanharbors.com

Copy via Email to the State of Nebraska:

Nebraska Electronic Docket (e-copy)
ndeq.epainspections@nebraska.gov

David Haldeman, Administrator (e-copy)
Waste Management Division
Nebraska Department of Environment and Energy
david.haldeman@nebraska.gov

Jeff Edwards (e-copy)
Nebraska Department of Environment and Energy
jeffery.edwards@nebraska.gov

Dated this _____ day of _____, _____.

Signed