

## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

## REGION 4

In the Matter of:

Tradebe Treatment and Recycling of  
Tennessee, LLC  
5485 Victory Lane  
Millington, Tennessee 38053  
EPA ID No.: TND000772186

Respondent.

Docket No. **RCRA-04-2022-2110(b)**

Proceeding Under Section 3008(a) of the  
Resource Conservation and Recovery Act,  
42 U.S.C. § 6928(a)

**CONSENT AGREEMENT**

**I. NATURE OF ACTION**

1. This is an administrative penalty assessment proceeding brought under Section 3008(a) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a) (RCRA or the Act) and Sections 22.13(b) and 22.18 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at Title 40 of the Code of Federal Regulations (C.F.R.), Part 22.
2. This Consent Agreement and the attached Final Order shall collectively be referred to as the CAFO.
3. Having found that settlement is consistent with the provisions and objectives of the Act and applicable regulations, the Parties have agreed to settle this action pursuant to 40 C.F.R. § 22.18 and consent to the entry of this CAFO without Respondent's admission of violation or adjudication of any issues of law or fact herein.

**II. PARTIES**

4. Complainant is the Chief of the Chemical Safety and Land Enforcement Branch, Enforcement and Compliance Assurance Division, United States Environmental Protection Agency, Region 4, who has been delegated the authority on behalf of the Administrator of the EPA to enter into this CAFO pursuant to 40 C.F.R. Part 22 and Section 3008(a) of the Act.
5. Respondent is Tradebe Treatment and Recycling of Tennessee, LLC, a limited liability company doing business in the State of Tennessee. This proceeding pertains to Respondent's facility located at 5485 Victory Lane, Millington, Tennessee 38053 (Facility).



### III. GOVERNING LAW

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the State of Tennessee (State) has received final authorization to carry out a hazardous waste program in lieu of the federal program set forth in RCRA. The requirements of the authorized State program are found at Tennessee Hazardous Waste Management Act (THWMA) Tenn. Code Ann § 68-212-101 et seq. and Tenn. Comp. R. & Regs. 0400-12-01.01 through 0400-12-01.12.
7. Pursuant to Section 3006(g) of RCRA, 42 U.S.C. § 6926(g), the requirements established by the Hazardous and Solid Waste Amendments of 1984 (HSWA), Pub. L. 98-616, are immediately effective in all states regardless of their authorization status and are implemented by the EPA until a state is granted final authorization with respect to those requirements. The State has received final authorization for certain portions of HSWA, including those recited herein.
8. Although the EPA has granted the State authority to enforce its own hazardous waste program, the EPA retains jurisdiction and authority to initiate an independent enforcement action pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2). This authority is exercised by the EPA in the manner set forth in the Memorandum of Agreement between the EPA and the State.
9. As the State's authorized hazardous waste program operates in lieu of the federal RCRA program, the citations for the violations of those authorized provisions alleged herein will be to the authorized State program; however, for ease of reference, the federal citations will follow in brackets.
10. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), Complainant has given notice of this action to the State before issuance of this CAFO.
11. Section 68-212-108 of the THWMA, Tenn. Code Ann. § 68-212-108 [Section 3005 of RCRA, 42 U.S.C. § 6925], sets forth the requirement that a facility treating, storing, or disposing of hazardous waste must have a permit or interim status. The implementing regulations for this requirement are found at Tenn. Comp. R. & Regs. 0400-12-01-.06 (permitted) and Tenn. Comp. R. & Regs. 0400-12-01-.05 (interim status) [40 C.F.R. Parts 264 (permitted) and 265 (interim status)].
12. On October 16, 2000, Respondent was issued a Hazardous Waste Management Permit, Permit # TNHW-103, by the Tennessee Department of Environment and Conservation (TDEC) for the storage and treatment of hazardous waste (the RCRA Permit). The RCRA Permit became effective on October 16, 2000, and was administratively continued after its expiration on October 16, 2010, by permit extension requests on April 6, 2010 and August 6, 2010 followed by the submittal of a permit renewal application on October 1, 2010.
13. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(1)(b) [40 C.F.R. § 261.2], a "solid waste" is any discarded material that is not otherwise excluded from the regulations. A discarded material includes any material that is abandoned by being accumulated, stored, or treated (but not recycled) before or in lieu of being abandoned by being disposed of, burned, or incinerated.
14. Pursuant to the RCRA Permit "solid waste" means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation



return flow or industrial discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923).

15. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(1)(c) [40 C.F.R. § 261.3], a solid waste is a "hazardous waste" if it meets any of the criteria set forth in Tenn. Comp. R. & Regs. 0400-12-01-.02(1)(c)1.(ii) [40 C.F.R. § 261.3(a)(2)] and is not otherwise excluded from regulation as a hazardous waste by Tenn. Comp. R. & Regs. 0400-12-01-.02(1)(d)2. [40 C.F.R. § 261.4(b)].
16. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10], a "generator" is defined as any person, by site, whose act or process produces hazardous waste identified or listed in Tenn. Comp. R. & Regs. 0400-12-01-.02 [40 C.F.R. Part 261], or whose act first causes a hazardous waste to become subject to regulation.
17. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10], a "facility" includes "all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste.
18. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10], a "person" includes a corporation, joint stock company, partnership, or association.
19. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10], an "owner" is "the person who owns a facility or part of a facility" and an "operator" is "the person responsible for the overall operation of a facility."
20. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10], "storage" means the containment of hazardous waste in such a manner as not to constitute disposal of such hazardous waste.
21. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10], "container" means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.
22. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10], "tank" means a stationary device, designed to contain an accumulation of hazardous waste which is constructed primarily of non-earthen materials (e.g., wood, concrete, steel, plastic) which provide structural support.
23. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10], "treatment" means 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 amenable for recovery, amenable for storage, or reduced in volume.
24. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10], "free liquids" means liquids which readily separate from the solid portion of a waste under ambient temperature and pressure.



25. Pursuant to the RCRA Permit a “unit” for the purposes of this permit includes, but is not limited to, any landfill, surface impoundment, waste pile, land treatment unit, incinerator, injection well, tank, container storage area, septic tank, drain field, wastewater treatment unit, elementary neutralization unit, transfer station, or recycling unit.
26. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.12(1)(i) [40 C.F.R. § 260.10], “universal waste handler” means: a generator (as defined in this section) of universal waste; or the owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates universal waste, and sends universal waste to another universal waste handler, to a destination facility, or to a foreign destination.
27. Pursuant to the RCRA Permit Section III (“*Specific Conditions for Storage and Treatment in Containers*”), Condition B (“*Condition of Containers*”) if a container holding hazardous waste is not in good condition (e.g., severe rusting, apparent structural defects) or if it begins to leak, the Permittee shall transfer the hazardous waste from this container to a container that is in good condition or otherwise manage the waste in some other way that complies with the conditions of this permit.
28. Pursuant to the RCRA Permit Section III. (“*Specific Conditions for Storage and Treatment in Containers*”), Condition. D. (“*Management of Containers*”) the Permittee shall comply with Attachment 8 (“*Container Storage and Treatment*”), page 8-37 (“*Types and Quantities of Wastes Managed in Unit 207*”) and Attachment 8, page 8-51 (“*Types and Quantities of Wastes Managed in Unit 217*”), which prohibits the storage of hazardous wastes in Units 207 and 217 which contain free liquids. The physical characteristic of the waste must be solids only.
29. Pursuant to the RCRA Permit Section II. (“*General Facility Conditions*”), Condition O (“*Land Disposal Restrictions*”) the Permittee shall comply with Tennessee Rule 0400-12-1-11-.10 [40 C.F.R. Part 268] including Tennessee Rule 0400-12-1-.10(4)(a)3. [40 CFR § 268.50(c)], which states an owner/operator of a treatment, storage or disposal facility may store such wastes beyond one year; however, the owner/operator bears the burden of proving that such storage was solely for the purpose of accumulation of such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment, or disposal.
30. Pursuant to the RCRA Permit Section II (“*General Facility Conditions*”), Condition O (“*Land Disposal Restrictions*”) the Permittee shall comply with Tennessee Rule 1200-1-11-.10 [40 C.F.R. § 268.50] including Tennessee Rule 0400-12-1-.10(4)(a)1.(ii)(I)I.-IV. [40 CFR § 268.50(a)(2)(i)(A-D)], which prohibits the storage of hazardous wastes restricted from land disposal, unless the owner/operator of a hazardous waste treatment, storage, or disposal facility stores such wastes in containers solely for the purpose of the accumulation of such quantities of hazardous waste as necessary to facilitate proper recovery, treatment, or disposal.
31. The RCRA Permit Section II. (“*General Facility Conditions*”), Condition R (“*Organic Air Emission Standards*”) requires the Permittee to comply with the Subpart CC air emission requirements within Tenn. Comp. R. & Regs. 0400-12-01-.06(29) [40 C.F.R § 264.1084(c)(2)(i)]. Specifically, Tenn. Comp. R. & Regs. 0400-12-01-.06(29) [40 C.F.R § 264.1084(c)(2)(i)] requires owners and operators controlling air pollutant emissions from a tank using Tank Level 1 controls to equip the tank with a fixed roof which has closure devices designed to form a continuous barrier over the entire surface area of the hazardous waste in the tank.



32. Pursuant to the RCRA Permit Section III. (“*Specific Conditions for Storage and Treatment in Containers*”) Condition D. (“*Management of Containers*”) which requires the Permittee to comply with Attachment 8 (“*Container Storage and Treatment*”), Attachment 8-1 Table 8-1-1 states: Summary of Maximum Waste Capacities (Staged and Stored Containers) Container Management Unit 204, Containerized Management Unit D-Bay, Staging Area North has a total capacity of 4,400 gallons.
33. Pursuant to the RCRA Permit Section III. (“*Specific Conditions for Storage and Treatment in Containers*”) Condition I. (“*Loading/Unloading Operations*”) 2. (“*Inbound Material Acceptance*”) (c) transport vehicles parked in the transport area will be moved into the receiving area for evaluation and/or receipt within five (5) calendar days.
34. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10], a “Large Quantity Generator” (LQG) is a generator who generates greater than or equal to 1,000 kilograms (2,200 lbs) of non-acute hazardous waste in a calendar month.
35. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.03(4)(e)5(i)(I) [40 C.F.R. § 262.34(c)(1)<sup>1</sup>], a generator may accumulate as much as 55 gallons of hazardous waste in containers at or near the point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or without having interim status, as required by Section 68-212-108 of the THWMA, Tenn. Code Ann. § 68-212-108 [Section 3005 of RCRA, 42 U.S.C. § 6925], and without complying with Tenn. Comp. R. & Regs. 0400-12-01-.03(4)(e)2. [40 C.F.R. § 262.34(a)], provided that the generator complies with the satellite accumulation area (SAA) conditions listed in Tenn. Comp. R. & Regs. 0400-12-01-.03(4)(e)5(i)(I & II) [40 C.F.R. § 262.34(c)(1)(i & ii)] (hereinafter referred to as the “SAA Permit Exemption”).
36. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.03(4)(e)5(i)(II) [40 C.F.R. § 262.34(c)(1)(ii)], which is a condition of the SAA Permit Exemption, a generator is required to mark SAA containers either with the words “Hazardous Waste” or with other words that identify the contents of the containers.
37. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.12(1)(b) [40 C.F.R. § 273.9], a “Small Quantity Handler of Universal Waste” (SQHUW) is a Universal Waste handler who does not accumulate 5,000 kilograms or more of Universal Waste (batteries, pesticides, mercury-containing equipment, or lamps, calculated collectively) at any time.
38. Pursuant Tenn. Comp. R. & Regs. 0400-12-01-.12(2)(d)4. [40 C.F.R. § 273.13(d)], a SQHUW must manage universal waste lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment.

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<sup>1</sup> At the time of the inspection, Tennessee had updated its hazardous waste regulations to include the amendments made by the federal Generator Improvements Rule, 81 Fed. Reg. 85,732 (Nov. 28, 2016). The EPA authorized these amendments effective September 12, 2022; however, because Tennessee had not yet been authorized by the EPA for these amendments as of the time of the inspection, the citations included below are to the previously authorized State generator regulations, effective as of January 2018. In addition, at the time of the inspection, Tennessee had updated its universal waste regulations to include aerosol cans pursuant to the federal Universal Waste Aerosol Cans Rule, 84 Fed. Reg. 67,202 (Dec. 9, 2019). However, because Tennessee has not yet been authorized by the EPA for these amendments, the citations included below are to the previously authorized State universal waste regulations, effective as of February 2015).



#### IV. FINDINGS OF FACTS

39. Respondent is a commercial hazardous waste treatment and storage facility.
40. Respondent's facility is located at 5485 Victory Lane, Millington, Tennessee 38053.
41. On March 1, 2022, Respondent notified TDEC as an LQG.
42. On March 8 and 9, 2022, the EPA and the TDEC conducted a Compliance Evaluation Inspection (CEI) at Respondent's facility. The EPA's findings of the CEI were documented in a report electronically mailed to Respondent, dated May 19, 2022.
43. At the time of the CEI, the EPA inspector observed that the Respondent was storing a hazardous waste in a 55-gallon container in Row 15 of Unit 217 of its permitted facility, which was partially crushed, and therefore, not in good condition.
44. At the time of the CEI, the EPA inspector observed that the Respondent was storing five 55-gallon containers in Row 32 of Unit 217 and two 55-gallon containers in Row 7 of Unit 207, of hazardous waste that held free liquids in units designated for the storage of "solids hazardous wastes only."
45. At the time of the CEI, the EPA inspector observed that the Respondent was storing the land disposal restricted hazardous wastes in its permitted Facility for greater than one year, without demonstrating or documenting that such storage was solely for the purpose of accumulation of such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment or disposal:
  - (a) Two 55-gallon containers in Row 32 of Unit 217 with accumulation start dates of February 9, 2021, and March 27, 2020;
  - (b) One 55-gallon container in Row 36 of Unit 217 with an accumulation start date of February 24, 2021;
  - (c) Two 55-gallon containers in the Wash Bay in Unit 204 with an accumulation start date of July 30, 2020 and February 5, 2021; and
  - (d) One 15-gallon and one 30-gallon containers in the C-Bay North area of Unit 204 with accumulation start dates of January 15, 2021, and February 7, 2021, respectively.
46. At the time of the CEI, the EPA inspector observed that the Respondent was storing one 55-gallon container of hazardous waste in Row 36 of Unit 217 and 15 boxes of hazardous waste in Area C of Unit 207 without a label or date on the individual container or boxes of land disposal restricted hazardous waste.
47. At the time of the CEI, the EPA inspector observed that the inlet valve on top of Respondent's hazardous waste Tank T-004, a tank using Tank Level 1 controls, in Unit 208, was open.
48. At the time of the CEI, the EPA inspector observed that the Respondent was storing 5,225 gallons of hazardous waste within the D-Bay North of Unit 204 exceeding its 4,400 gallons storage capacity.
49. At the time of the CEI, the EPA inspector determined through a review of the Facility's inbound trailer log that the Respondent had managed an inbound transport trailer of hazardous wastes at its



Facility in excess of five (5) calendar days (January 11-17, 2022) in a transport area, an area northwest of Unit 204, before moving it to the receiving area for evaluation and/or receipt.

50. At the time of the CEI, the EPA inspector observed that the Respondent was accumulating hazardous waste within three unlabeled five-gallon containers in a SAA within Unit 208.
51. At the time of the March 8 and 9, 2022 CEI, the EPA observed that the Respondent was accumulating Universal Waste fluorescent bulbs in an area east of Unit 202 within open containers (one 4-foot tube and one cubic yard box).

## V. ALLEGED VIOLATIONS

52. Respondent is a "person" as defined in Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10].
53. Respondent is the "owner" and "operator" of a "facility" located in Millington, Tennessee, as those terms are defined in Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10].
54. Respondent generates, treats and stores wastes that are "solid wastes" and "hazardous wastes" as defined in Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10].
55. Respondent failed to manage hazardous waste in a container which was in good condition. The EPA therefore alleges Respondent violated RCRA Permit Section III. Condition B, by storing hazardous waste in a container which was not in good condition.
56. Respondent managed hazardous waste with free liquids in Units 207 and 217, which only allowed for the storage of hazardous waste in a physical solid state. The EPA therefore alleges Respondent violated the RCRA Permit Section III. Condition D. (1), by storing hazardous wastes which contain free liquids.
57. Respondent stored hazardous waste restricted from land disposal for greater than one year, without proving that such storage was solely for the purpose of accumulation of such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment, or disposal. The EPA therefore alleges Respondent violated the RCRA Permit Section II. Condition O and Tennessee Rule 1200-1-11-.10(4)(a)3. [40 C.F.R. § 268.50(c)], by storing hazardous waste restricted from land disposal beyond one year, without proving that such storage was solely for the purpose of accumulation of such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment, or disposal.
58. Respondent failed to label and date each of its containers of hazardous waste restricted from land disposal. The EPA therefore alleges Respondent violated the RCRA Permit Section II. Condition O and Tennessee Rule 0400-12-1-.10(4)(a)1.(ii)(I)I.-IV. [40 CFR § 268.50(a)(2)(i)(A-D)], by storing hazardous wastes restricted from land disposal, without ensuring (i) each container is clearly marked to identify its contents and with: (A) the words "Hazardous Waste;" (B) the applicable EPA hazardous waste number(s); or use a nationally recognized electronic system, such as bar coding, to identify the EPA hazardous waste number(s); (C) an indication of the hazards of the contents; and (D) the date each period of accumulation begins.



59. Respondent failed to ensure the inlet valve, a closure device, on the fixed roof of the Tank T-004 formed a continuous barrier over the hazardous waste. The EPA therefore alleges Respondent violated the RCRA Permit Section II. Condition R (Organic Air Emission Standards) and Tenn. Comp. R. & Regs. 0400-12-01-.06(29) [40 C.F.R. § 264.1084(c)(2)(i)], by failing to ensure the fixed roof and its closure device form a continuous barrier over the surface of the hazardous waste in the tank.
60. Respondent failed to manage hazardous waste within the permitted storage capacity limit (4,400 gallons) of the D-Bay North area of Unit 204. The EPA therefore alleges Respondent violated the RCRA Permit Section III. Condition D. (1), by failing to manage waste within the permitted storage capacity described in Attachment 8-1, Table 8-1-1 for of Unit 204, Containerized Management Unit D-Bay, Staging Area North.
61. Respondent failed to move one of its transport vehicles from its transfer area to its receiving area within five (5) calendar days. The EPA therefore alleges Respondent violated the RCRA Permit Condition Section III. Condition I.2.(c), by failing to move an incoming transport vehicle parked within its transport area into the receiving area for evaluation and/or receipt within five (5) calendar days.
62. Respondent failed to label containers of hazardous waste within a SAA with the words "Hazardous Waste" or with other words that identify the contents of the containers. The EPA therefore alleges Respondent violated Tenn. Comp. R. & Regs. 0400-12-01-.03(4)(e)5(i)(II) [40 C.F.R. § 262.34(c)(1)(ii)], which is a condition of the SAA Permit Exemption, by failing to mark its SAA containers either with the words "Hazardous Waste" or with other words that identify the contents of the containers.
63. Respondent failed to manage universal waste fluorescent lamps in closed containers. The EPA therefore alleges Respondent violated Tenn. Comp. R. & Regs. 0400-12-01-.12(2)(d)4. [40 C.F.R. § 273.13(d)], by failing to manage universal waste lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment.

## VI. STIPULATIONS

64. The issuance of this CAFO simultaneously commences and concludes this proceeding. 40 C.F.R. § 22.13(b).
65. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:
  - a. admits that EPA has jurisdiction over the subject matter alleged in this CAFO;
  - b. neither admits nor denies the factual allegations set forth in Section IV (Findings of Facts) of this CAFO;
  - c. consents to the assessment of a civil penalty as stated below;
  - d. consents to the conditions specified in this CAFO;
  - e. waives any right to contest the allegations set forth in Section V (Alleged Violations) of this CAFO; and



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

66. For the purpose of this proceeding, Respondent:

- a. agrees that this CAFO states a claim upon which relief may be granted against Respondent;
- b. acknowledges that this CAFO constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement actions;
- c. waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CAFO, including any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706;
- d. waives any rights it may possess at law or in equity to challenge the authority of EPA to bring a civil action in a United States District Court to compel compliance with the CAFO, and to seek an additional penalty for such noncompliance, and agrees that federal law shall govern in any such civil action;
- e. waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to EPA officials where the purpose of such discussion, memorandum, or communication is to persuade such official to accept and issue this CAFO; and
- f. agrees to comply with the terms of this CAFO.

67. By executing this CAFO, Respondent certifies to the best of its knowledge that Respondent is currently in compliance with all relevant requirements of the Act and its implementing regulations, and that all violations alleged herein, which are neither admitted nor denied, have been corrected.

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

## VII. TERMS OF PAYMENT

69. Respondent consents to the payment of a civil penalty, which was calculated in accordance with the Act, in the amount of **THIRTY-EIGHT THOUSAND AND TWO HUNDRED AND THIRTY-SIX DOLLARS (\$38,236.00)**, which is to be paid within thirty (30) calendar days of the Effective Date of this CAFO.

70. Payment(s) shall be made by cashier's check, certified check, by electronic funds transfer (EFT), or by Automated Clearing House (ACH) (also known as REX or remittance express). If paying by check, the check shall be payable to: Treasurer, United States of America, and the Facility name and docket number for this matter shall be referenced on the face of the check.

- a. If Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:



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

- b. If Respondent sends payment by non-U.S. Postal express mail delivery, the payment shall be sent to:

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

- c. If paying by EFT, Respondent shall transfer the payment to:

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

- d. If paying by ACH, Respondent shall remit payment to:

US Treasury REX / Cashlink ACH Receiver  
ABA: 051036706  
Account Number: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 – checking  
Physical location of US Treasury facility:  
5700 Rivertech Court  
Riverdale, Maryland 20737  
Contact: Craig Steffen, (513) 487-2091  
REX (Remittance Express): 1-877-372-2457

71. Respondent shall send proof of payment, within 24 hours of payment of the civil penalty, to:

Regional Hearing Clerk  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960  
R4\_Regional\_Hearing\_Clerk@epa.gov

and



Daryl R. Himes  
Chemical Safety and Land Enforcement Branch  
Environmental Compliance and Assurance Division  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960  
himes.daryl@epa.gov

72. "Proof of payment" means, as applicable, a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the Facility name and "Docket No. RCRA 04-2022-2110(b).

73. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to remit the civil penalty as agreed to herein, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the costs of processing and handling the delinquent claim. Accordingly, EPA may require the Respondent to pay the following amounts on any amount overdue:

- a. Interest. Interest will begin to accrue on the civil penalty from the Effective Date of this CAFO. If the civil penalty is paid within 30 days of the Effective Date of this CAFO, Interest is waived. However, if the civil penalty is not paid in full within 30 days, Interest will continue to accrue on any unpaid portion until the unpaid portion of the civil penalty and accrued Interest are paid. Interest will be assessed at the rate of the United States Treasury tax and loan rate, as established by the Secretary of the Treasury, in accordance with 31 U.S.C. § 3717(a)(1), 31 C.F.R. § 901.9(b)(2), and 40 C.F.R. § 13.11(a).
- b. Non-Payment Penalty. On any portion of a civil penalty or a stipulated penalty more than ninety (90) calendar days past due, Respondent must pay a non-payment penalty of not more than six percent (6%) per annum, which will accrue from the date the penalty payment became due and is not paid, as provided in 31 U.S.C. § 3717(e)(2) and 31 C.F.R. § 901.9(d). This non-payment penalty is in addition to charges which accrue or may accrue under subparagraphs (a) and (c) and will be assessed monthly. 40 C.F.R. § 13.11(c).
- c. Monthly Handling Charge. Respondent must pay a late payment handling charge to cover the administrative costs of processing and handling the delinquent claim, based on either actual or average cost incurred. 31 C.F.R. § 901.9(b)(c), and 40 C.F.R. § 13.11(b). Administrative costs will be assessed monthly throughout the period the debt is overdue except as provided by 40 C.F.R. § 13.12.

74. In addition to what is stated in the prior Paragraph, if Respondent fails to timely pay any portion of the penalty assessed under this CAFO, EPA may:

- a. refer the debt to a credit reporting agency or a collection agency, 40 C.F.R. §§ 13.13 and 13.14;
- b. collect the debt by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person



owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 40 C.F.R. Part 13, Subparts C and H;

- c. suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, 40 C.F.R. § 13.17; and/or
- d. refer the debt to the Department of Justice as provided in 40 C.F.R. § 13.33. In any such judicial action, the validity, amount, and appropriateness of the penalty and of this CAFO shall not be subject to review.

75. Penalties paid pursuant to this CAFO shall not be deductible for purposes of federal taxes.

### VIII. EFFECT OF CAFO

76. In accordance with 40 C.F.R. § 22.18(c), Respondent's full compliance with this CAFO shall only resolve Respondent's liability for federal civil penalties for the violations and facts specifically alleged above.
77. Full payment of the civil penalty, as provided in Section VII (Terms of Payment) shall satisfy the requirements of this CAFO, but shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. 40 C.F.R. § 22.18(c).
78. Any violation of this CAFO may result in a civil penalty for each day of continued noncompliance with the CAFO and/or the suspension or revocation of any federal or state permit issued to the violator, as provided in Section 3008(c) of the Act, 42 U.S.C § 6928(c).
79. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the Act and other federal, state, or local laws or statutes, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit, except as expressly provided herein.
80. Nothing herein shall be construed to limit the power of EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment as provided under the Act.
81. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of both Parties, and approval of the Regional Judicial Officer.
82. The provisions of this CAFO shall apply to and be binding upon Respondent its successors and assigns. Respondent shall direct its officers, directors, employees, agents, trustees, and authorized representatives to comply with the provisions of this CAFO, as appropriate.
83. Any change in the legal status of the Respondent, or change in ownership, partnership, corporate or legal status relating to the Facility, will not in any way alter Respondent's obligations and responsibilities under this CAFO.



84. By signing this Consent Agreement, Respondent acknowledges that this CAFO will be available to the public and agrees that this CAFO does not contain any confidential business information or personally identifiable information.
85. By signing this Consent Agreement, the Complainant and the undersigned representative of Respondent each certify that he or she is fully authorized to execute and enter into the terms and conditions of this CAFO and has the legal capacity to bind the party he or she represents to this CAFO.
86. By signing this Consent Agreement, both Parties agree that each party's obligations under this CAFO constitute sufficient consideration for the other party's obligations.
87. By signing this Consent Agreement, Respondent certifies that the information it has supplied concerning this matter was at the time of submission, and continues to be, true, accurate, and complete for each such submission, response, and statement. Respondent acknowledges that there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.
88. EPA also reserves the right to revoke this CAFO and settlement penalty if and to the extent that EPA finds, after signing this CAFO, that any information provided by Respondent was materially false or inaccurate at the time such information was provided to EPA. If such false or inaccurate material was provided, EPA reserves the right to assess and collect any and all civil penalties for any violation described herein. EPA shall give Respondent notice of its intent to revoke, which shall not be effective until received by Respondent in writing.
89. Unless specifically stated otherwise in this CAFO, each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.
90. It is the intent of the parties that the provisions of this CAFO are severable. If any provision or authority of this CAFO or the application of this CAFO to any party or circumstances is held by any judicial or administrative authority to be invalid or unenforceable, the application of such provisions to other parties or circumstances and the remainder of the CAFO shall remain in force and shall not be affected thereby.

#### IX. EFFECTIVE DATE

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

**Remainder of Page Intentionally Left Blank**

**Complainant and Respondent will Each Sign on Separate Pages.**







The foregoing Consent Agreement In the matter of **Tradebe Treatment and Recycling of Tennessee, LLC**, Docket No. RCRA-04-2022-2110(b) is Hereby Stipulated, Agreed, and Approved for Entry.

FOR COMPLAINANT:

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



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of:

Tradebe Treatment and Recycling of  
Tennessee, LLC  
5485 Victory Lane  
Millington, Tennessee 38053  
EPA ID No.: TND000772186

Respondent.

Docket No. **RCRA-04-2022-2110(b)**

Proceeding Under Section 3008(a) of the  
Resource Conservation and Recovery Act,  
42 U.S.C. § 6928(a)

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

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

**BEING AGREED, IT IS SO ORDERED.**

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Tanya Floyd  
Regional Judicial Officer



## CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order, in the Matter of **Tradebe Treatment and Recycling of Tennessee, LLC**, were filed and copies of the same were emailed to the parties as indicated below.

**Via email to all parties at the following email addresses:**

To Respondent: Arthur Fullerton  
Senior Counsel  
Tradebe Treatment and Recycling of Tennessee, LLC  
234 Hobart Street  
Meriden, Connecticut 06450  
(203) 247-8070  
art.fullerton@tradebe.com

To EPA: Daryl R. Himes  
Environmental Engineer  
himes.daryl@epa.gov

F. Marshall Binford  
Associate Regional Counsel  
binford.marshall@epa.gov

Quantindra Smith  
Environmental Protection Specialist  
smith.quantindra@epa.gov

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