

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103**

In the Matter of:	:	
	:	
Clean Harbors of Baltimore, Inc.	:	U.S. EPA Docket No. RCRA-03-2021-0103
1910 Russell Street	:	
Baltimore, MD 21230	:	Proceeding under Section 3008(a) and (g) of the
	:	Resource Conservation and Recovery Act, as
Respondent.	:	amended, 42 U.S.C. § 6928(a) and (g)
	:	
Clean Harbors of Baltimore, Inc.	:	
1910 Russell Street	:	
Baltimore, MD 21230	:	
	:	
Facility.	:	
	:	

CONSENT AGREEMENT

PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III (“Complainant”) and Clean Harbors of Baltimore, Inc. (“Respondent”) (collectively the “Parties”), pursuant to Section 3008(a) and (g) of the Resource Conservation and Recovery Act (“RCRA” or the “Act”), as amended, 42 U.S.C. § 6928(a) and (g), and 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 C.F.R. Part 22. Section 3008(a) of RCRA authorizes the Administrator of the U.S. Environmental Protection Agency (“EPA” or the “Agency”) to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated this authority to the Regional Administrator who, in turn, has delegated it to the Complainant. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), authorizes the assessment of a civil monetary penalty against any person who violates any requirement of RCRA Subtitle C, EPA’s regulations thereunder, or any regulation of a state hazardous waste program which has been authorized by EPA. This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the “Consent Agreement and Final Order”) resolve Complainant’s civil penalty claims against Respondent under RCRA for the violations alleged herein.

2. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

JURISDICTION

3. The U.S. Environmental Protection Agency has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.
4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(4).
5. On February 11, 1985, pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), and 40 C.F.R. Part 271, Subpart A, EPA granted the State of Maryland final authorization to administer its hazardous waste management program regulations (“MdHWMR”) set forth at the Code of Maryland Regulations (“COMAR”), Title 10, Subtitle 51 et seq., in lieu of the federal hazardous waste management program established under RCRA Subtitle C, 42 U.S.C. §§ 6921-6939e. Through this final authorization, the provisions of the MdHWMR became requirements of RCRA Subtitle C and are, accordingly, enforceable by EPA on and after that date pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a). EPA authorized revisions to the Maryland hazardous waste management program set forth at COMAR, Title 26, Subtitle 13 effective on July 31, 2001, September 24, 2004, and on October 31, 2016, and, accordingly, the provisions of the revised MdHWMR are enforceable by EPA on and after those dates pursuant to § 3008(a) of RCRA, 42 U.S.C. § 6928(a). Maryland has not sought authorization to implement the federal air monitoring RCRA regulations, commonly known as RCRA Subparts AA, BB, and CC. EPA promulgates the regulations in Subpart AA, BB and CC pursuant to the 1984 Hazardous and Solid Waste Amendments, and those federal regulations apply in Maryland.
6. On February 15, 2019, EPA sent a letter to the State of Maryland, through the Maryland Department of the Environment (“MDE”), giving prior notice of this action in accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

GENERAL PROVISIONS

7. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order.
8. Except as provided in Paragraph 7, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.
9. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this Consent Agreement and Final Order.

10. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and Final Order and waives its right to appeal the accompanying Final Order.
11. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.
12. Respondent shall bear its own costs and attorney's fees in connection with this proceeding.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

13. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.
14. Respondent's facility is located at 1910 Russell Street, Baltimore, Maryland 21230 ("Facility"). At the Facility, Respondent operates a hazardous waste treatment and storage facility. At the time of the inspection, Respondent had a RCRA Controlled Hazardous Substances permit number A-151 ("Permit" or "the Permit), which allows it to operate a hazardous storage and treatment facility.
15. Respondent is a Corporation organized under the laws of the Commonwealth of Massachusetts.
16. Respondent's waste management operations primarily consist of treatment of hazardous waste by reducing the volume or toxicity of the waste. This Facility then either discharges into the sewer for treatment at the City of Baltimore wastewater treatment plant or sends the waste off-site for additional treatment or disposal at another waste management facility.
17. Respondent is now and was at the time of the violations alleged herein, a "person" as that term is defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and COMAR 26.13.01.03B(61).
18. At all times relevant to the allegations set forth in this Consent Agreement, Respondent is, and has been, the "operator" and the "owner" of the Facility, as those terms are defined in COMAR 26.13.01.03.B(58) and (59), during the period of the violations alleged in this Consent Agreement.
19. At all times relevant to the allegations set forth in this Consent Agreement, and as described below, Respondent is, and has been, engaged in the "storage" of "solid waste" and "hazardous waste" in "containers" at the Facility, as those terms are defined in COMAR 26.13.01.03.B(76), (73), (31), and (9).

20. At all times relevant to the allegations set forth in this Consent Agreement, Respondent's Facility is, and has been, a hazardous waste storage "facility" as that term is defined in COMAR 26.13.01.03.B(23).
21. On April 17-24, 2018, two duly-authorized representatives of EPA ("EPA Inspectors") conducted a Compliance Evaluation Inspection at the Facility (the "CEI" or "Inspection") to examine the Respondent's compliance with the federally-authorized MdHWMR and applicable federal hazardous waste regulations.
22. On the basis of EPA's findings during the Inspection, and other information Respondent provided to EPA, EPA concludes that Respondent has violated certain requirements and provisions of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, certain federally-authorized MdHWMR requirements promulgated thereunder, and certain applicable federal hazardous waste regulations as well as certain requirements under the Permit.

Count I

(Failure to Comply with Method 21 Regarding Air Monitoring Instrument Response Factors and Monitoring Equipment Calibration Requirements as Required 40 C.F.R. § 265.1063(b))

23. The information and allegations in the preceding Paragraphs of this Consent Agreement are incorporated herein by reference.
24. Respondent has equipment at the Facility that contains or contacts hazardous wastes with organic concentrations of at least 10% by weight ("light liquid service") that are managed in units that are subject to the permitting requirements of 40 CFR Part 270 and § 265.1050(b).
25. 40 C.F.R. § 265.1057 requires that each valve in light liquid service shall be monitored by the methods specified in 40 C.F.R. § 265.1063(b).
26. 40 C.F.R. § 265.1063(b) state that the owner or operator shall comply with Reference Method 21 in 40 CFR part 60 for leak detection monitoring. Reference Method 21 Section 8.1.1.2 states that the instrument response factors for each of the individual Volatile Organic Compound ("VOC") to be measured shall be less than 10 unless otherwise specified in the applicable regulation. When no instrument is available that meets this specification when calibrated with the reference VOC specified in the applicable regulation, the available instrument may be calibrated with one of the VOC to be measured, or any other VOC, so long as the instrument then has a response factor of less than 10 for each of the individual VOC to be measured. Reference Method 21 Section 8.1.2 states that a calibration precision test must be completed prior to placing the analyzer into service and at subsequent 3-month intervals or at the next use, whichever is later, respectively.
27. During the Inspection, the EPA inspectors noted that CHB conducts its fugitive emission monitoring using a Photovac MicroFID flame ionizing detector analyzer ("FID").

Respondent provided the EPA inspectors with documentation, which lists the FID response factor when calibrated for methanol as 23.8 and carbon tetrachloride as 25.9. The EPA inspectors also noted that Respondent receives methanol and carbon tetrachloride hazardous waste with waste codes that include these two chemicals. Based on the observations made by the EPA inspectors during the Inspection and from documentation provided by the Respondent, the Respondent is using a FID for its 40 C.F.R Subpart BB monitoring, and the FID has response factors above 10 for both methanol and carbon tetrachloride when calibrating the FID prior to use. Therefore, Respondent failed to comply with Method 21 calibration requirements as referenced in 40 C.F.R. § 265.1063(b).

28. During the Inspection, the EPA inspectors requested that Respondent provide records demonstrating that calibration precision testing was performed for its FID consistent with Method 21. Respondent was unable to provide calibration precision test records for its FID and a Facility representative stated that calibration precision testing was not performed for its FID. Based on the information gathered during the Inspection, Respondent failed to perform quarterly calibration precision testing for its FID used in its Air Monitoring in accordance with the Method 21 requirements as referenced in 40 C.F.R. § 265.1063(b), and therefore failed to comply with and Method 21 calibration requirements as referenced in 40 C.F.R. § 265.1063(b).

Count II

(Failure to Prevent Open-Ended Valves or Lines as Required by Required 40 C.F.R. § 265.1056(a)(1))

29. The information and allegations in the proceeding Paragraphs of this Consent Agreement are incorporated herein by reference.
30. 40 C.F.R. § 265.1056(a)(1) requires that each open-ended valve or line in equipment that contains or contacts hazardous wastes with organic concentrations of at least 10 percent by weight shall be equipped with a cap, blind flange, plug, or a second valve.
31. During the Inspection, EPA inspectors observed nine open-ended valves in equipment that contains or contacts hazardous wastes with organic concentrations of at least 10 percent by weight that that were not equipped with a cap, blind flange, plug, or second valve. The open-ended valves observed were:
- CES tank farm, liquid line, tag 0884
 - CES tank farm, filter, tag 0873
 - CES tank farm, bottom of tank 103, tag 0336
 - CES tank farm, by tank 104, tag 0363
 - CES tank farm, D-3, tag 0730
 - Inside CES building, tag 0647
 - Inside CES building, by tank D1, tag 1195
 - Inside CES building, tag 1200

- Inside CES building, tag 1100

32. Based on the observations made at the time of the Inspection, Respondent failed to equip nine (9) open ended valves or lines with a cap, blind, flange or a second valve in violation of 40 C.F.R. § 265.1056(a)(1).

CIVIL PENALTY

32. In settlement of EPA's claims for civil penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of **SEVENTY TWO THOUSAND TWO HUNDRED FORTY-THREE DOLLARS (\$72,243.00)**, which Respondent shall be liable to pay in accordance with the terms set forth below.

33. The civil penalty is based upon EPA's consideration of a number of factors, including the penalty criteria ("statutory factors") set forth in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), including, the following: the seriousness of the violation and any good faith efforts to comply with the applicable requirements. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's October, 1990 RCRA Civil Penalty Policy, as revised in June, 2003 ("RCRA Penalty Policy"), which reflect the statutory penalty criteria and factors set forth at Section 3008(a)(3) and (g) of RCRA, 42 U.S.C. §§ 6928(a)(3) and (g), the appropriate Adjustment of Civil Monetary Penalties for Inflation, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA's civil penalty policies to account for inflation.

34. Payment of the civil penalty amount, and any associated interest, administrative fees, and late payment penalties owed, shall be made by either cashier's check, certified check or electronic wire transfer, in the following manner:

- a. All payments by Respondent shall include reference to Respondent's name and address, and the Docket Number of this action, *i.e.*, RCRA-03-2021-0103;
- b. All checks shall be made payable to the "United States Treasury";
- c. All payments made by check and sent by regular mail shall be addressed and mailed to:

U.S. Environmental Protection Agency
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

- d. For additional information concerning other acceptable methods of payment of the civil penalty amount see:

<https://www.epa.gov/financial/makepayment>

- e. A copy of Respondent's check or other documentation of payment of the penalty using the method selected by Respondent for payment shall be sent simultaneously, by email, to:

Jeffrey S. Nast
Sr. Assistant Regional Counsel
U.S. EPA, Region III (3RC40)
1650 Arch Street
Philadelphia, PA 19103-2029
nast.jeffrey@epa.gov

Regional Hearing Clerk
U.S. EPA, Region III (3RC00)
1650 Arch Street
Philadelphia, PA 19103-2029
R3_Hearing_Clerk@epa.gov

35. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment of the penalty as specified herein shall result in the assessment of late payment charges including interest, penalties and/or administrative costs of handling delinquent debts.
36. Payment of the civil penalty is due and payable immediately upon receipt by Respondent of a true and correct copy of the fully executed and filed Consent Agreement and Final Order. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed Consent Agreement and Final Order, with a date stamp indicating the date on which the Consent Agreement and Final Order was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed EPA by Respondent in accordance with 40 C.F.R. § 13.9(a).
37. INTEREST: In accordance with 40 C.F.R § 13.11(a)(1), interest on the civil penalty assessed in this Consent Agreement and Final Order will begin to accrue on the date that a copy of the fully executed and filed Consent Agreement and Final Order is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalties that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R § 13.11(a).
38. ADMINISTRATIVE COSTS: The costs of the EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives – Case Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first

thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.

39. LATE PAYMENT PENALTY: A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
40. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.

GENERAL SETTLEMENT CONDITIONS

41. By signing this Consent Agreement, Respondent acknowledges that this Consent Agreement and Final Order will be available to the public and represents that, to the best of Respondent's knowledge and belief, this Consent Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondent.
42. Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this Consent Agreement and Final Order, including information about respondent's ability to pay a penalty, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

CERTIFICATION OF COMPLIANCE

43. Respondent certifies to EPA, upon personal investigation and to the best of its knowledge and belief, that it currently is in compliance with regard to the violations alleged in this Consent Agreement.

OTHER APPLICABLE LAWS

44. Nothing in this Consent Agreement and Final Order shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, 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 the validity of any federal, state or local permit. This Consent Agreement and Final Order does not constitute a waiver,

suspension or modification of the requirements of RCRA, or any regulations promulgated thereunder.

RESERVATION OF RIGHTS

45. This Consent Agreement and Final Order resolves only EPA's claims for civil penalties for the specific violations alleged against Respondent in this Consent Agreement and Final Order. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. This settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice, 40 C.F.R. § 22.18(c). EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this Consent Agreement and Final Order after its effective date.

EXECUTION /PARTIES BOUND

46. This Consent Agreement and Final Order shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and Final Order.

EFFECTIVE DATE

47. The effective date of this Consent Agreement and Final Order is the date on which the Final Order, signed by the Regional Administrator of EPA, Region III, or his/her designee, the Regional Judicial Officer, is filed along with the Consent Agreement with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

ENTIRE AGREEMENT

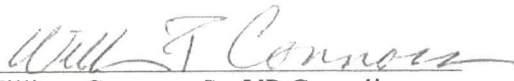
48. This Consent Agreement and Final Order constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed in this Consent Agreement and Final Order.

In re: Clean Harbors of Baltimore, Inc.

EPA Docket No. RCRA-03-2021-0103

For Respondent: CLEAN HARBORS OF BALTIMORE, INC

Date: September 8, 2021

By: 
William Connors, Sr. VP Compliance

For the Complainant:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement and Compliance Assurance Division of the United States Environmental Protection Agency, Region III, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

Date: _____

By: _____

Karen Melvin
Director, Enforcement and Compliance Assurance
Division
U.S. EPA – Region III
Complainant

Attorney for Complainant:

Date: 9/9/2021

By:  _____

Jeffrey S. Nast
Sr. Assistant Regional Counsel
U.S. EPA – Region III

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103

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1910 Russell Street	:
Baltimore, MD 21230	:
	:
Facility.	:
	:

FINAL ORDER

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III, and Respondent, Clean Harbors of Baltimore, Inc. have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with 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 C.F.R. Part 22 (with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA's 1990 RCRA Civil Penalty Policy, as revised in June, 2003 ("RCRA Penalty Policy"), and again on May 6, 2020, and the statutory factors set forth at Section 3008(a)(3) and (g) of RCRA, 42 U.S.C. § 6928(a)(3) and (g).

NOW, WHEREFORE, PURSUANT TO Section 3008(a) and (g) of the Resource Conservation and Recovery Act ("RCRA" or the "Act"), as amended, 42 U.S.C. § 6928(a) and (g), and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of **SEVENTY TWO THOUSAND TWO HUNDRED FORTY-THREE DOLLARS (\$72,243.00)**, in accordance with the payment provisions set forth in the Consent Agreement and in 40 C.F.R. § 22.31(c), and comply with the terms and conditions of the Consent Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order 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 the law. This Final Order resolves only those causes of action alleged in the Consent Agreement and does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of RCRA and the regulations promulgated thereunder.

The effective date of the attached Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

Date: _____

By: _____

Joseph J. Lisa
Regional Judicial and Presiding Officer
U.S. EPA Region III