

**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III**

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REGIONAL OFFICE
ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.

In the Matter of:	:	
	:	
	:	
Citrus and Allied Essences, Ltd.	:	
65 South Tyson Avenue	:	U.S. EPA Docket RCRA-03-2016-0141
Floral Park, NY 11001	:	
	:	
Respondent,	:	
	:	
	:	
	:	
Citrus and Allied Essences, Ltd.	:	Proceeding under Section 3008(a) and
4620 Mercedes Drive	:	(g) of the Resource Conservation and
Belcamp, MD 21017	:	Recovery Act, as amended, 42 U.S.C.
	:	Section 6928(a) and (g)
	:	
Facility.	:	

CONSENT AGREEMENT

This Consent Agreement is entered into by the Director, Land and Chemicals Division, U.S. Environmental Protection Agency, Region III (“EPA”, “Agency” or “Complainant”) and Citrus and Allied Essences, Ltd. (“Respondent”) pursuant to Sections 3008(a) and (g) of the Solid Waste Disposal Act, commonly known as the Resource Conservation and Recovery Act of 1976, as amended by *inter alia*, the Hazardous and Solid Waste Amendments of 1984 (collectively referred to hereinafter as “RCRA”), 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, including, specifically, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).

This Consent Agreement and the accompanying Final Order (hereinafter jointly referred to as the “CAFO”), address alleged violations, by Respondent, of Subtitle C of RCRA, 42 U.S.C. §§ 6921 – 6939g, and the current authorized State of Maryland Hazardous Waste Management Regulations (“MdHWMR”), set forth at the Code of Maryland Regulations (“COMAR”), Title 26, Subtitle 13 *et seq.* in connection with Respondent’s facility located at 4620 Mercedes Drive, Belcamp, Maryland, 21017 (the “Facility”).

The MdHWMR were originally authorized by EPA on February 11, 1985, pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b). Revisions to the MdHWMR set forth at COMAR, Title 26, Subtitle 13, were authorized by EPA effective July 31, 2001 and September

24, 2004. The provisions of the revised authorized program are enforceable by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

I. GENERAL PROVISIONS

1. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement.
2. Respondent neither admits nor denies the specific factual allegations and conclusions of law set forth in this Consent Agreement, except as provided in Paragraph 1, above.
3. For the purposes of this proceeding only, Respondent agrees not to contest EPA's jurisdiction with respect to the execution and issuance of this CAFO, or the enforcement of this CAFO.
4. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and any right to appeal the accompanying Final Order.
5. Respondent consents to the issuance of this CAFO and agrees to comply with its terms.
6. Each party shall bear its own costs and attorney's fees in connection with this proceeding.

Notice of Action to the State of Maryland

7. By letter to Brian Coblenz, Chief, Solid Waste Program, Maryland Department of the Environment ("MDE"), dated August 11, 2015, EPA has given the State of Maryland, through MDE, prior notice of the initiation of this action in accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).
8. Upon making a determination that any person has violated or is in violation of any requirement of RCRA Subtitle C, and upon satisfying the notification requirements of RCRA Section 3008(a)(2), 42 U.S.C. § 6928(a)(2), RCRA Section 3008(a)(1), 42 U.S.C. § 6928(a)(1), authorizes the Administrator of EPA to issue an order assessing a civil penalty for any past or current violation, requiring compliance immediately or within a specified time period, or both.
9. Pursuant to § 22.13(b) of the Consolidated Rules of Practice, this Consent Agreement and the accompanying Final Order, issued pursuant to 40 C.F.R. § 22.18(b)(2) and (3), simultaneously commence and conclude an administrative proceeding against

Respondent, brought under Sections 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g), to resolve alleged violations of RCRA at Respondent's Facility.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

10. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3), Complainant alleges the following findings of fact and conclusions of law:
11. Respondent, Citrus and Allied Essences, Ltd., is a New York corporation and is a "person" as defined by RCRA Section 1004(15), 42 U.S.C. § 6903(15), and COMAR 26.13.01.03B(61).
12. Respondent is and has been, through the period of the violations alleged herein, the "owner" and "operator" of a "facility" located at 4620 Mercedes Drive, Belcamp, Maryland as these terms are defined by COMAR 26.13.01.03B(59), (58) and (23). Such facility is hereinafter referred to as the "Facility".
13. Respondent is and has been, through the period of the violations alleged herein, a "generator" of, and has engaged in the "storage" of, materials that are "solid wastes" and "hazardous waste" at the Facility as those terms are defined by COMAR 26.13.01.03B(29), (76), (73), and (31), as described below.
14. Respondent is and, at all times relevant to the violations in this CAFO has been, a large quantity generator who generates hazardous waste in an amount equal to or greater than 1,000 kilograms per month. Respondent is assigned EPA ID No. MDD985372143.
15. On May 21, 2014, EPA representatives conducted a Compliance Evaluation Inspection ("CEI") of the Facility.
16. On June 16, 2014, EPA sent Respondent an information request letter ("IRL") pursuant to Section 3007(a) of RCRA, 42 U.S.C. § 6927(a), regarding generation and management of hazardous wastes at the Facility.
17. At the time of the CEI and at all times relevant to this action, Respondent generated waste terpenes at the Facility. Waste terpenes are hazardous waste within the meaning of COMAR 26.13.02.11 because they exhibit the characteristic of ignitability (D001).

COUNT I

(Operating a hazardous waste storage facility without a permit or interim status)

18. The preceding paragraphs are incorporated by reference.

19. Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and COMAR 26.13.07.01A, provide, with certain exceptions not relevant here, that a person may not operate a hazardous waste storage, treatment or disposal facility unless such person has first obtained a permit for the facility.
20. RCRA § 3005(e), 42 U.S.C. § 6925(e), provides, in pertinent part, that any person who owns or operates a facility required to have a permit under RCRA § 3005, which facility was in existence on November 19, 1980, or is in existence on the effective date of statutory or regulatory provisions that render the facility subject to the requirement to have a permit, has complied with the notification requirements of RCRA § 3010(a), 42 U.S.C. § 6930(a), and has applied for a permit under RCRA § 3005, shall be treated as having been issued such permit (*i.e.*, “interim status”) until such time as final administrative disposition of such application is made.
21. Respondent has never had “interim status” pursuant to RCRA Section 3005(e) or a permit issued pursuant to RCRA Section 3005(a) for the treatment, storage, or disposal of hazardous waste at the Facility.
22. Pursuant to COMAR 26.13.03.05E(1), generators of hazardous waste who accumulate hazardous waste on-site for 90 days or less are exempt from the requirement to obtain a permit for such accumulation, so long as the hazardous waste is stored in accordance with a number of conditions set forth in that section, including, but not limited to, the following:
 - a. Pursuant to COMAR 26.13.03.05E(1)(d), the generator must comply with the requirements of COMAR 26.13.05.09 and, in accordance with the requirements of COMAR 26.13.05.09D, always keep containers used to store hazardous waste closed during storage, except when it is necessary to add or remove waste.
 - b. Pursuant to COMAR 26.13.03.05E(1)(g), the generator must comply with the requirements of COMAR 26.13.05.02G and .04, including the requirements to:
 - (i) Ensure facility personnel involved in the management of hazardous waste onsite take part in an annual review of the initial hazard waste training in accordance with COMAR 26.13.05.02G(3);
 - (ii) Maintain documents and records at the facility demonstrating: a) the job title of each position at the facility related to hazardous waste management, and the name of the employee filling the job; b) a written job description for each position; c) a written description of the type and amount of both introductory and continuing training that will be given to each person filling each hazardous waste management position at the facility and, d) records that document that the training or job experience required under COMAR 26.13.05.02G(1), (2), and (3) has been

given to, and completed by, Facility personnel, in accordance with COMAR 26.13.05.02.G(4)(a) – (d); and

(iii) Comply with the requirements of COMAR 26.13.05.04C(5) and list, in the Facility Contingency Plan, all emergency equipment, and the location of said emergency equipment, at the Facility.

c. Pursuant to COMAR 26.13.03.05E(1)(h)(i), the generator must comply with the requirements of COMAR 26.13.05.10 – 10.3, including the requirement to:

(i) Conduct daily inspections of each hazardous waste storage tank system in accordance with COMAR 26.13.05.10.D(2)(a), (c) and (d); as set forth in Paragraph 49, below; and,

(ii) Have a written assessment that is certified by a professional engineer in accordance with COMAR 26.13.07.03D for each new hazardous waste storage tank system at the Facility, as required by COMAR 26.13.05.10-3A.

d. Pursuant to COMAR 26.13.03.05E(1)(h)(iv), the generator must clearly label each hazardous waste storage tank with the words “Hazardous Waste” while hazardous waste is being accumulated in the tank.

23. Respondent did not qualify for the permit exemptions specified under COMAR 26.13.03.05E(1) with respect to the on-site storage of the hazardous waste at the Facility because it failed to meet applicable permit exemption conditions for each of the following reasons:

a. On May 21, 2014, Respondent stored hazardous waste in containers that were open when not adding or removing waste, in contravention of COMAR 26.13.05.09D and the permit exemption condition of COMAR 26.13.03.05E(1)(d). Specifically Respondent was storing:

(i) A 55-gallon drum of terpene waste (D001) with an open funnel inserted in the open bung hole;

(ii) An open bucket of spent acetone/methanol hazardous waste in the Quality Control Lab;

(iii) A container of spent acetone/methanol hazardous waste with an open funnel inserted in the open lid of a container, located in the Incoming Lab; and,

(iv) A container of spent acetone/methanol hazardous waste with an open funnel inserted in the open lid of the container located in the Developmental Lab.

- b. On May 21, 2014, Respondent's employees Gene D. and Tim C. were listed as emergency contacts in the Facility Response to Environmental Incidents document and maintained positions relating to hazardous waste management at the Facility, but were not documented as having received annual hazardous waste training in 2012 and 2013 in the Facility training records in contravention of COMAR 26.13.05.02G(4)(d) and the permit exemption conditions of COMAR 26.13.03.05E(1)(g).
- c. On May 21, 2014, the job descriptions for the distillation operator, the compounder, and the traffic coordinator at the Facility did not describe the requisite hazardous waste responsibilities or the type of hazardous waste training provided to employees filling these positions in contravention of COMAR 26.13.05.02.G(4)(a) – (c) and the permit exemption conditions of COMAR 26.13.03.05E(1)(g).
- d. On May 21, 2014, the Facility Contingency Plan did not contain a list of emergency equipment at the Facility and the location of the same, in contravention of COMAR 26.13.05.04.C(5) and the permit exemption conditions of COMAR 26.13.03.05 E(1)(g).
- e. On May 21, 2014, Respondent did not have a written assessment certified by a professional engineer in accordance with COMAR 26.13.07.03D for two tanks used for hazardous waste storage: 1) a 5,000 gallon section of a new 10,000 gallon double-walled tank located on the outside the Facility building, and, 2) a new 5,000 gallon double-walled hazardous waste storage tank located inside the Facility building, in contravention of COMAR 26.13.05.10-3A and the permit exemption conditions of COMAR 26.13.03.05E(1)(h)(i).
- f. On May 21, 2014, Respondent did not conduct daily inspections of two tanks used for hazardous waste storage: 1) a 5,000 gallon section of a new 10,000 gallon double-walled tank located on the outside the Facility building, and, 2) a new 5,000 gallon double-walled hazardous waste storage tank located inside the Facility building, in contravention of COMAR 26.13.05.10D(3)(a)(c) and (d) and the permit exemptions conditions of COMAR 26.13.03.05E(1)(h)(i).
- g. On May 21, 2014, Respondent failed to properly label and mark a hazardous waste storage tank at the Facility with the words "Hazardous Waste" in contravention of the permit exemption conditions of COMAR 26.13.03.05E(1)(h)(iv).

24. For each of the reasons and on each of the dates set forth in Paragraph 23(a) – (g), above, Respondent did not meet the requirements for a permit exemption under COMAR 26.13.03.05E and therefore violated COMAR 26.13.07.01A and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), by operating a hazardous waste storage facility (i.e., the Facility) without a permit or interim status.

COUNT II

(Failure to Make Hazardous Waste Determinations)

25. The preceding paragraphs are incorporated by reference.
26. COMAR 26.13.03.02 requires that a person who generates a solid waste shall determine if that waste is a hazardous waste using the method set forth in COMAR 26.13.02.02A(1) – (3).
27. On May 21, 2014, Respondent had discarded aerosol cans at the Facility, which therefore became solid wastes within the meaning and definition of COMAR 26.13.01.03B(73) and COMAR 26.13.02.02A(2)(a) and B(1), without first determining if the aerosol cans or their contents were hazardous waste, as required by COMAR 26.13.03.02.
28. On May 21, 2014, Respondent had discarded spent solvent from the Facility lab, which therefore became solid wastes within the meaning and definition of COMAR 26.13.01.03B(73) and COMAR 26.13.02.02A(2)(a) and B(1), without first determining if the spent solvent were hazardous waste, as required by COMAR 26.13.03.02.
29. Respondent's acts and/or omissions as alleged in Paragraphs 27 and 28, above, constitute violations of COMAR 26.13.03.02.

COUNT III

(Job Descriptions)

30. The preceding paragraphs are incorporated by reference.
31. COMAR 26.13.05.02G(4)(a) – (c) requires the owner or operator to maintain the following documents and records at the facility:
- a. The job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job;
 - b. A written job description for each position listed under COMAR 26.13.05.02G(4)(a).

- c. A written description of the type and amount of both introductory and continuing training that will be given to each person filling a position listed in COMAR 26.13.05.02G(4)(a).
32. On May 21, 2014, the job descriptions for the Facility distillation operator, compounder and traffic coordinator: (a) were not listed as positions at the Facility related to hazardous waste management, as required by COMAR 26.13.05.02G(4)(a); (b) did not describe the requisite hazardous waste management responsibilities for each job, as required by COMAR 26.13.05.02G(4)(b); and, (c) did not describe the type of hazardous waste training provided to the employees filling these jobs, as required by COMAR 26.13.05.02G(4)(c).
33. Respondent's acts and/or omissions, as alleged in Paragraph 32 above, constitute violations of COMAR 26.13.05.02G(4)(a) – (c).

COUNT IV
(Annual Training Records)

34. The preceding paragraphs are incorporated by reference.
35. COMAR 26.13.05.02G(3) requires the facility personnel to take part in an annual review of the training required by COMAR 26.13.05.02G(1), which teaches facility personnel to perform their duties in a way that ensures the facility's compliance with the MdHWMR.
36. COMAR 26.13.05.02G(4)(d) requires the owner or operator of the facility to maintain at the facility records that document that the training or job experience required under COMAR 26.13.05.02G(1), (2) and (3) has been given to, and completed by, facility personnel.
37. COMAR 26.13.05.02G(5) requires training records on current personnel be kept until closure of the facility.
38. On May 21, 2014, Respondent's employees, Gene D. and Tim C., were listed as emergency contacts in the Facility Response to Environmental Incidents document and maintained positions related to hazardous waste management at the Facility, but were not documented as having received annual hazardous waste training in the Facility training records for 2012 and 2013 as required by COMAR 26.13.05.02G(3).
39. Respondent's acts and/or omissions, as alleged in Paragraph 38 above, constitute violations of COMAR 26.13.05.02G(4)(d).

COUNT V
(Contingency Plan)

40. The preceding paragraphs are incorporated by reference.
41. COMAR 26.13.05.04B requires owners and operators to have a contingency plan for their facility. COMAR 26.13.05.04C lists the required contents for each such contingency plan, including the requirements that each contingency plan include a list of all emergency equipment at the facility and the location of such equipment at the facility.
42. On May 21, 2014, the Facility Contingency Plan did not include a list of emergency equipment or the location of such equipment at the Facility.
43. Respondent's acts and/or omissions, as alleged in Paragraph 42 above, constitute violations of COMAR 26.13.05.04C(5).

COUNT VI
(Container Management)

44. The preceding paragraphs are incorporated by reference.
45. COMAR 26.13.05.09D requires owners and operators of hazardous waste storage facilities that store containers of hazardous waste to keep containers of hazardous waste closed during storage, except when it is necessary to add or remove waste.
46. On May 21, 2014, Respondent stored hazardous waste in containers at the Facility that were open at times when waste was neither added or removed, specifically:
 - (i) A 55-gallon drum of terpene waste (D001) with an open funnel inserted in the open bung hole;
 - (ii) An open bucket of spent acetone/methanol hazardous waste in the Quality Control Lab;
 - (iii) A container of spent acetone/methanol hazardous waste with an open funnel inserted in the open lid of the container located in the Incoming Lab; and,
 - (iv) A container of spent acetone/methanol hazardous waste with an open funnel inserted in the open lid of the container located in the Developmental Lab.
47. Respondent's acts and/or omissions, as alleged in Paragraph 46 above, constitute violations of COMAR 26.13.05.09D.

COUNT VII

(Daily hazardous waste tank system inspections)

48. The preceding paragraphs are incorporated by reference.
49. COMAR 26.13.05.10D(2)(a), (c) and (d) require the owner or operator of a hazardous waste storage tank system to inspect at least once each operating day:
- (a) Data gathered from monitoring and leak detection equipment, such as pressure and temperature gauges and monitoring wells, to ensure that the tank system is being operated according to design,
 - * * *
 - (c) Above-ground portions of the tank system to detect corrosion or releases of waste, and
 - (d) The construction materials of, and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment system, to detect erosion or signs of releases of hazardous wastes, such as wet spots and dead vegetation[.]
50. From at least January 1, 2012 until May 21, 2014, Respondent did not conduct daily inspections as required by COMAR 26.13.05.10D(2)(a), (c) and (d) for two tanks used for hazardous waste storage: 1) a 5,000 gallon section of a new 10,000 gallon double-walled tank located on the outside the Facility building, and, 2) a new 5,000 gallon double-walled hazardous waste storage tank located inside the Facility, as required by COMAR 26.13.05.10D(2)(a), (c) and (d).
51. Respondent's acts and/or omissions, as alleged in Paragraph 50, above, constitute violations of COMAR 26.13.05.10D(2)(a), (c) and (d).

COUNT VIII

(Written Assessment for Hazardous Waste Storage Tank)

52. The preceding paragraphs are incorporated by reference.
53. COMAR 26.13.05.10-3B requires the owner or operator of a new hazardous waste storage tank system to obtain and to have a written assessment, as required by COMAR 26.13.05.10-2B(1), for such tank system that, pursuant to COMAR 26.13.05.10-2B(2), is certified by a professional engineer in accordance with COMAR 26.13.07.03D and that provides the assessment required under COMAR 26.13.05.10-2B(1) and considers those factors identified in COMAR 26.13.05.10.B(3).

54. From at least January 1, 2012 until May 21, 2014, Respondent owned and operated two tanks used for hazardous waste storage: 1) a 5,000 gallon section of a new 10,000 gallon double-walled tank located on the outside the Facility building, and, 2) a new 5,000 gallon double-walled hazardous waste storage tank located inside the Facility building without obtaining or having the required written assessment, certified in accordance with COMAR 26.13.07.03D, from a professional engineer as required by COMAR 26.13.05.10-3B.
55. Respondent's acts and/or omissions, as alleged in Paragraph 54 above, constitute violations of COMAR 26.13.05.10-3B.

III. CIVIL PENALTIES

56. Respondent agrees to pay a civil penalty in the amount of **\$59,472.00** in settlement of the alleged violations set forth in this CAFO, which Respondent agrees to pay in accordance with the terms set forth below. Such civil penalty amount shall become due and payable sixty (60) days after Respondent's receipt of a true and correct copy of the fully executed and filed CAFO.
57. The aforesaid settlement amount was based upon Complainant's consideration of a number of factors, including the penalty criteria set forth in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), which include 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 reflects the statutory penalty criteria and factors set forth at Sections 3008(a)(3) and (g) of RCRA, 42 U.S.C. §§ 6982(a)(3) and (g). Complainant also has considered the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, and the December 6, 2013 memorandum by EPA Assistant Administrator Cynthia Giles, entitled *Amendments to the U.S. Environmental Protection Agency's Civil Penalty Policies to Account for Inflation (Effective December 6, 2013)*.
58. Respondent shall remit the full penalty pursuant to paragraph 56, above, and/or any administrative fees and late payment penalties, by cashier's check, certified check or electronic wire transfer, in the following manner:
- A. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action, *i.e.*, RCRA-03-2016-0141;
 - B. All checks shall be made payable to "**United States Treasury**";

- C. All payments made by check and sent by regular mail shall be addressed to:

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

Contact: Craig Steffen 513-487-2091

- D. All payments made by check and sent by overnight delivery service shall be addressed for delivery to:

U.S. Environmental Protection Agency
Cincinnati Finance Center
Government Lockbox 979077
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

Contact: 314-418-1818

- E. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York
ABA = 021030004
Account No. = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read:
“D 68010727 Environmental Protection Agency”

- F. All electronic payments made through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX / Cashlink ACH Receiver
ABA = 051036706
Account No.: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 - Checking
Physical location of U.S. Treasury facility:
5700 Rivertech Court

Riverdale, MD 20737

Contact: John Schmid 202-874-7026 or REX, 1-866-234-5681

G. On-Line Payment Option: WWW.PAY.GOV/PAYGOV

Enter sfo 1.1 in the search field. Open and complete the form.

H. Point Of Contact regarding payment questions (i.e. how to make payment via wire, ACH, check, pay.gov):

Craig Steffen, 513-487-2091, steffen.craig@epa.gov

Additional payment guidance is available at:

<http://www2.epa.gov/financial/makepayment>.

59. At the time of payment, Respondent shall send a notice of such payment, including a copy of any check or electronic transfer, as appropriate, to:

Lydia Guy
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region III (Mail Code 3RC00)
1650 Arch Street
Philadelphia, PA 19103-2029

and

Joyce A. Howell
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency
Region III (Mail Code 3RC30)
1650 Arch Street
Philadelphia, PA 19103-2029

60. Respondent agrees not to deduct for civil taxation purposes the civil penalty specified in this CAFO.

61. 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 as specified in this

CAFO shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.

62. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a copy of the executed and filed CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid timely, in accordance with the payment provisions of Paragraph 58, above. 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).
63. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash 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. A penalty charge of six percent per year will be assessed monthly on any portion of the civil penalty which 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).

IV. SUPPLEMENTAL ENVIRONMENTAL PROJECT

64. The following Supplemental Environmental Project ("SEP") is consistent with applicable EPA policy and guidelines, including EPA's *Supplemental Environmental Projects Policy*, effective March 10, 2015.
65. Respondent agrees to implement a comprehensive Compliance Focused Environmental Management System ("CFEMS") consistent with the EPA Guidance entitled: *Compliance-Focused Environmental Management System-Enforcement Agreement Guidance*, revised June 2005.
66. The contents of Respondent's CFEMS will include, at a minimum, the following elements:
 - a) A corporate environmental policy statement;
 - b) A description of personnel, personnel assignments and responsibilities related to the implementation of the CFEMS;
 - c) Information regarding accountability and responsibilities related to risk reduction and environmental protection for managers, on-site providers and contractors;

- d) Methods for identifying, interpreting, and effectively communicating environmental requirements to affected personnel, on-site providers and contractors;
- e) Procedures for ongoing assessment of operations for the purposes of preventing and controlling or minimizing reasonably foreseeable releases and to ensure environmental protection and compliance with statutory and regulatory requirements;
- f) Procedures for internal and external reporting of potential violations and release incidents. These procedures will include provisions for investigations, prompt and appropriate corrective action, and a system for tracking effectiveness of corrective and preventive actions;
- g) A comprehensive environmental training program for employees that will identify and include methods to verify the competence of employees within the CFEMS;
- h) Procedures for integrating environmental planning into organization decision-making, including plans and decisions on capital improvements, product and process design, training programs, and maintenance activities as appropriate;
- i) Comprehensive environmental document control procedures identifying the types of documents to be maintained, responsibilities for maintaining documents, identifying where documents are to be maintained, and measures to prevent unauthorized disclosure and protocols for responding to inquiries and requests to release information;
- j) Procedures for preventing, reducing, recycling, reusing, and minimizing waste and emissions, including procedures to encourage material substitutions where appropriate;
- k) Procedures for periodic evaluation of the CFEMS and incorporating the results of periodic assessments into program improvements, revisions to the manual, and communicating findings and action plans to affected employees, on-site service providers and contractors; and,
- l) Procedures for ongoing community education and involvement related to the environmental aspects of the Facility's operations and general environmental awareness.

67. The CFEMS SEP shall be implemented by an independent third party auditor (herein "Auditor") selected and retained by Respondent to perform the following CFEMS SEP Tasks as follows:

- a) Task One: Review and Evaluation: The Auditor shall conduct an initial review of the Facility's current environmental management system as implemented at the Facility. The Auditor will evaluate any written programs and the effectiveness of the Facility's implementation of said existing written programs;
- b) Task Two: Development of a Comprehensive CFEMS as described in Paragraph 66, above;
- c) Task Three: Development of an electronic corrective action and/or preventive action environmental tracking system;
- d) Task Four: Conduct environmental training based on the CFEMS requirements, with specific attention to implementation and follow-up;
- e) Task Five: The Auditor will conduct a multimedia environmental compliance audit of Respondent's Belcamp Maryland and Corona, California facilities;
- f) Task Six: The Auditor will assist Respondent to implement corrective measures to resolve any noncompliance identified during the multimedia audit conducted as described in Task Five; and,
- g) Task Seven: The Auditor will reevaluate and modify written procedures to address any areas or instances of noncompliance identified during the multimedia audit of Respondent's facilities conducted as described in Task Five.

68. Respondent shall perform the SEP in accordance with the following schedule:

- a) No later than ninety days (90) days after this CAFO becomes effective, Respondent shall complete Task One described in Paragraph 67(a), above.
- b) No later than one hundred eighty (180) days after this CAFO becomes effective, Respondent shall complete Task Two described in Paragraph 67(b), above.
- c) No later than one hundred fifty (150) days after this CAFO becomes effective, Respondent shall complete Task Three described in Paragraph 67(c), above.
- d) No later than two hundred ten (210) days after this CAFO becomes effective, Respondent shall submit to EPA a SEP Implementation Report, as described in Paragraph 73, below.

- e) No later than two hundred seventy (270) days after this CAFO becomes effective, Respondent shall complete Task Four described in Paragraph 67(d), above.
 - f) No later than one year (365 days) after this CAFO becomes effective, Respondent shall complete Tasks Five, Six, and Seven described in Paragraphs 67(e) – (g), above.
69. Respondent's total expenditure for installation of this SEP shall not be less than FORTY-FOUR THOUSAND DOLLARS (\$44,000.00). Respondent shall document all SEP expenditures and shall include documentation of all expenditures made in connection with the SEP as part of the SEP Completion Report required by this CAFO, as described in Paragraph 74, below.
70. Respondent hereby certifies:
- a) That all cost information provided by Respondent to EPA in connection with Respondent's performance of the SEP is complete and accurate and that Respondent in good faith estimates that the cost to implement the SEP is \$44,000;
 - b) That, as of the date of its signature to this Consent Agreement, Respondent is not required to perform or develop this SEP by any federal, state or local law or regulation and is not required to perform or develop this SEP by any other agreement, grant or as injunctive relief in this or any other case;
 - c) That the SEP is not a project that Respondent was planning or intending to construct, perform, or implement other than in settlement of the claims in this Consent Agreement;
 - d) That Respondent has not received, and is not presently negotiating to receive, credit in any other enforcement action for this SEP; and
 - e) That Respondent will not receive reimbursement for any portion of the SEP from another person or entity.
71. For federal income tax purposes, Respondent agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing this SEP.
72. Any public statement, oral or written, in print, film, or other media, made by Respondent making reference to the SEP under this Consent Agreement, from the effective date of the CAFO, shall include the following language: "This project was undertaken in connection with the settlement of an administrative enforcement action initiated by the United States Environmental Protection Agency against Citrus and Allied Essences, Ltd., to enforce federal laws."

73. No later than two hundred ten (210) days after this CAFO becomes effective, Respondent shall submit a written SEP Implementation Report to EPA, c/o Andrew Ma, Office of Land Enforcement (3LC70), Land and Chemicals Division, U.S. Environmental Protection Agency – Region III, Environmental Science Center, 701 Mapes Road, Fort Meade, MD 20755-5350, with a copy to Joyce Howell, (3RC30) U.S. EPA, Office of Regional Counsel, 1650 Arch Street, Philadelphia, PA., 19103. The SEP Implementation Report shall include the following elements:
- a) A copy of the independent auditor’s report produced in conjunction with the performance of Task One.
 - b) A copy of the CFEMS produced in the performance of Task Two.
 - c) A copy of written materials produced in the performance of Task Three.
 - d) A description of any unforeseen problems encountered during implementation of the SEP and a statement as to whether such problems will impact the timely completion of the SEP.
74. No later than three hundred ninety-five days (395) after this CAFO becomes effective, Respondent shall submit a written SEP Completion Report to EPA, c/o Andrew Ma, Office of Land Enforcement (3LC70), Land and Chemicals Division, U.S. Environmental Protection Agency – Region III, Environmental Science Center, 701 Mapes Road, Fort Meade, MD 20755-5350 with a copy to Joyce Howell, (3RC30) U.S. EPA, Office of Regional Counsel, 1650 Arch Street, Philadelphia, PA., 19103. The SEP Completion Report shall contain the following information:
- a) A copy of Respondent’s final CFEMS;
 - b) A copy of the training materials used in the performance of Task Four;
 - c) A copy of the compliance audit report performed under Task Five;
 - d) A description of the corrective measures implemented in the performance of Task Six;
 - e) A copy of the revised written procedures created in the performance of Task Seven;
 - f) Itemized costs of each SEP expenditure, along with the a sum total of all costs incurred by the Respondent that are eligible for SEP credit; and

- g) In addition to itemizing each SEP expenditure identified in its SEP Completion Report, Respondent shall clearly identify and provide full, complete and “acceptable financial documentation,” as identified in Paragraph 74(j), below, evidencing its actual payment of all eligible SEP costs;
 - h) Where the SEP Completion Report includes costs not eligible for SEP credit, those costs must be clearly identified as such;
 - j) For purposes of this Paragraph, “acceptable financial documentation” includes payment, invoices, purchase orders, payment receipts, or other documentation that specifically identifies and itemizes the individual costs of the goods and/or services for which payment was made. Canceled drafts do not constitute acceptable documentation unless such drafts specifically identify and itemize the individual costs of the goods and/or services for which payment was made.
75. Respondent shall, by its representative officers, sign the SEP Implementation Report and the SEP Completion Report required by Paragraphs 73 and 74 respectively and certify under penalty of law, that the information contained therein is true, accurate, and not misleading by including and signing the following statement:
- I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.
76. Respondent agrees that failure to submit the written SEP Implementation Report required by Paragraph 73 above, and the failure to submit the written SEP Completion Report required by Paragraph 74, above, shall be deemed a violation of this CAFO and, in such event, Respondent will be liable for stipulated penalties pursuant to Paragraphs 84 through 90, below.
77. Respondent agrees that EPA may inspect the Facility at which this SEP is being implemented at reasonable times in order to confirm that this SEP is being undertaken in conformity with the requirements of this CAFO.
78. Upon receipt of the written SEP Completion Report, identified in Paragraph 74, above, EPA will provide written notification to the Respondent of one of the following:

- a. If the Report is deficient, notify the Respondent in writing that the Report is deficient, provide an explanation of the deficiencies, and grant Respondent an additional fourteen (14) calendar days to correct those deficiencies; or
 - b. If the SEP Completion Report demonstrates that the SEP has been completed in accordance with the CAFO, notify the Respondent in writing that EPA has concluded that the SEP has been completed in accordance with this CAFO; or
79. After Respondent has received notice of a deficient SEP Completion Report and has been given an opportunity to cure the deficiencies noted by EPA, if the revised SEP Completion Report demonstrates that the SEP has not been completed in accordance with this CAFO, EPA will notify the Respondent in writing that EPA has concluded that the SEP has not been completed in accordance with this CAFO and EPA shall seek stipulated penalties in accordance with Paragraphs 81 through 90, below.
80. If EPA provides notification in accordance with Paragraph 78 above, EPA shall permit Respondent the opportunity to object in writing to the notification of deficiency within ten (10) calendar days of receipt of such notification. EPA and Respondent shall have an additional thirty (30) calendar days from the receipt by EPA of the notification of objection to reach an agreement on changes necessary to properly implement the SEP, operate the SEP and/or complete the SEP, and to revise and re-submit the relevant Report. If agreement cannot be reached within this thirty (30) calendar day period, a person who holds a management position at EPA shall provide to the Respondent a written statement of EPA's decision on the adequacy of the implementation and/or operation of the SEP, and the adequacy of any Report Respondent is required to submit pursuant to this CAFO, which shall be a final Agency action binding upon Respondent. In the event this SEP is not completed as required by this CAFO, as determined by EPA, stipulated penalties shall be due and payable by Respondent to EPA in accordance with Paragraphs 81 through 88, below.

V. STIPULATED PENALTIES

81. In the event that Respondent fails to comply with any of the terms or conditions of this Consent Agreement relating to the performance of the SEP, described in Paragraphs 65 - 69, above, submission of the written SEP Implementation Report and the written SEP Completion Report, described in Paragraphs 73 and 74, respectively, and/or to the extent that the actual expenditures for the SEP do not equal or exceed the costs set forth in Paragraph 69, above, Respondent shall be liable for stipulated penalties according to the provisions set forth below:

82. Except as provided in Paragraph 84, below, if the SEP has not been installed and operated satisfactorily pursuant to this CAFO, Respondent shall pay a stipulated penalty to EPA in the amount of THIRTY THOUSAND EIGHT HUNDERED DOLLARS (\$30,800.00).
83. If the SEP is not completed in accordance with Paragraph 65 - 69, above, but the Complainant determines that: (i) Respondent made good faith and timely efforts to install and operate the SEP; and (ii) Respondent certifies, with supporting documentation, that at least ninety percent (90%) of the amount of money which was required to be spent was expended on the SEP, Respondent shall not be liable for any stipulated penalty;
84. If the SEP is implemented and operated in accordance with Paragraph 65 - 69, above, and the SEP Completion Report is submitted in accordance with Paragraph 74, above, but the Respondent spent less than ninety percent (90%) of the amount of money required to be spent on the SEP, Respondent shall pay a stipulated penalty to EPA in the amount of THREE THOUSAND EIGHT HUNDERED DOLLARS (\$3,800.00).
85. If the SEP is completed in accordance with Paragraph 65 - 69, above, the SEP Completion Report is submitted in accordance with Paragraph 74, above, and the Respondent spent at least ninety percent (90%) of the amount of money required to be spent on the SEP, Respondent shall not be liable for any stipulated penalty; and
86. If Respondent fails to timely submit the SEP Implementation Report and/or SEP Completion Report as required by Paragraphs 73 and 74, above, Respondent shall pay a stipulated penalty in the amount of \$250.00 per day for each calendar day after the report was originally due until the Report(s) is/are submitted, up to a maximum amount set forth in Paragraph 88, below.
87. The determination of whether the SEP has been satisfactorily implemented and whether the Respondent has made a good faith, timely effort to implement the SEP shall be in the sole discretion of EPA.
88. Respondent shall pay stipulated penalties, in accordance with Paragraph 81 - 87 above, and in the manner described in Paragraph 58 - 59, above, not more than fourteen (14) calendar days after receipt of written demand from EPA for such penalties. Interest and late charges shall be paid as set forth in Paragraphs 61 through 63, above, as applicable. In no event will stipulated penalties due under Paragraphs 81 - 87 exceed THIRTY THOUSAND EIGHT HUNDERED DOLLARS (\$30,800.00).

VI. EFFECT OF SETTLEMENT

91. Payment of the penalty specified in Paragraph 56 above and satisfactory performance of the SEP described in Paragraphs 65 – 69, shall constitute full and final satisfaction of all civil claims for penalties which Complainant has under RCRA, including but not limited to Sections 3008(a) and (g), for the violations alleged in this Consent Agreement. Compliance with this CAFO shall not be a defense to any action commenced at any time for any other violation of the federal laws and regulations administered by EPA.

VII. RESERVATION OF RIGHTS

92. This CAFO resolves only EPA's claims for civil penalties for the violations alleged in the CAFO. Nothing in this CAFO shall be construed as limiting the authority of EPA to undertake 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. In addition, 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. Further, EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its filing with the Regional Hearing Clerk.

VIII. OTHER APPLICABLE LAWS

93. Nothing in this CAFO shall relieve Respondent of any duties otherwise imposed upon it by applicable federal, state, or local law and/or regulation.

IX. CERTIFICATION OF COMPLIANCE

94. Respondent certifies to Complainant by its representative's signature hereto, to the best of its knowledge and belief, that Respondent and the Facility are in compliance with all relevant provisions of the federally authorized MdHWMR, and of RCRA Subtitle C, 42 U.S.C. §§ 6921 – 6939g, for which violations are alleged in this Consent Agreement.

X. PARTIES BOUND

95. This Consent Agreement and the accompanying Final Order shall apply to and be binding upon the EPA, the Respondent, Respondent's officers and directors (in their official capacity) and Respondent's successors and assigns. By his or her signature below, the person signing this Consent Agreement on behalf of Respondent acknowledges that he or she is fully authorized to enter into this Consent Agreement and to bind Respondent to the terms and conditions of this Consent Agreement and the accompanying Final Order.

XI. EFFECTIVE DATE

96. The effective date of this CAFO is the date on which it is filed with the Regional Hearing Clerk after signature by the Regional Administrator or by his designee, the Regional Judicial Officer.

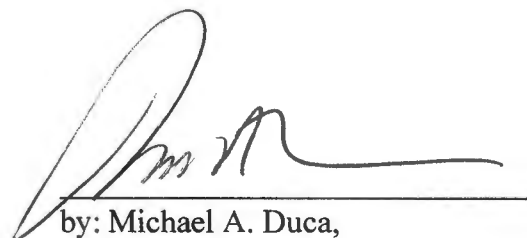
XII. ENTIRE AGREEMENT

97. This CAFO constitutes the entire agreement and understanding of the parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this CAFO.

For Respondent:

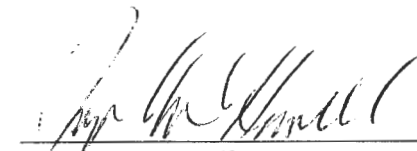
Citrus and Allied Essences, Ltd.

7/21/16
Date


by: Michael A. Duca,
Vice President, C.F.O.

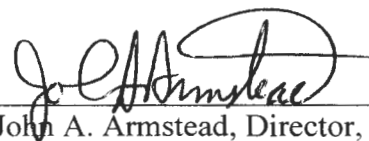
For Complainant:

7/26/2016
Date


by: Joyce A. Howell
Sr. Assistant Regional Counsel

After reviewing the foregoing Consent Agreement and other pertinent information, the Land and Chemicals Division, EPA Region III, recommends that the Regional Administrator or his designee, the Regional Judicial Officer, issue the Final Order attached hereto.

7.26.16
Date


John A. Armstead, Director,
Land and Chemicals Division
EPA Region III

BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III

RECEIVED

2016 JUL 29 AM 6:52

REGIONAL HEARING CLERK
EPA REGION III, PHILA. PA

In the Matter of:

**Citrus and Allied Essences, Ltd.
65 South Tyson Avenue
Floral Park, NY 11001**

Respondent,

**Citrus and Allied Essences, Ltd.
4620 Mercedes Drive
Belcamp, MD 21017**

Facility.

U.S. EPA Docket RCRA-03-2016-0141

**Proceeding under Section 3008(a) and
(g) of the Resource Conservation and
Recovery Act, as amended, 42 U.S.C.
Section 6928(a) and (g)**

FINAL ORDER

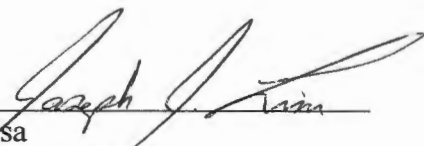
Complainant, the Director, Land and Chemical Division, U.S. Environmental Protection Agency - Region III, and Respondent, Citrus and Allied Essences, Ltd., have executed a document entitled "Consent Agreement" which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice 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. The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated herein as if set forth at length.

NOW, THEREFORE, PURSUANT TO Section 22.18(b)(3) of the Consolidated Rules of Practice and Section 3008(a) and (g) of the Resource Conservation and Recovery Act, 42 U.S.C.

§ 6928(a) and (g) ("RCRA"), and having determined, based on the representations of the parties in the attached Consent Agreement, that the civil penalty agreed to therein was based upon a consideration of the factors set forth in Section § 3008(a)(3) and (g), 42 U.S.C. § 6928(a)(3) and (g), IT IS HEREBY ORDERED that Respondent pay a civil penalty of **\$59,472.00**, and comply with each of the additional terms and conditions as specified in the attached Consent Agreement.

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

July 28, 2016
Date: 0



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

BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
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(g) of the Resource Conservation and
Recovery Act, as amended, 42 U.S.C.
Section 6928(a) and (g)

CERTIFICATE OF SERVICE

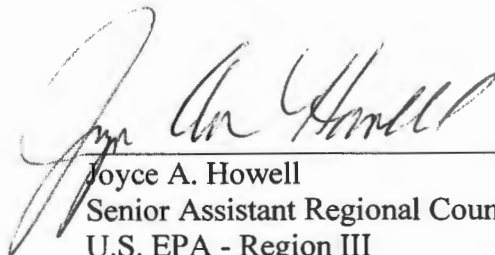
I certify that I sent a copy of the Consent Agreement and Final Order in the above-captioned matter to the addressee and in the manner listed below. The original and one copy of the Complaint were hand-delivered to the Regional Hearing Clerk, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103-2029.

Via UPS, next day delivery to:

Christopher G. Foster, Esq.
Morris, Polich and Purdy, LLP
1055 West Seventh Street
Twenty-Fourth Floor
Los Angeles, CA 90017

Dated:

7/29/2016



Joyce A. Howell
Senior Assistant Regional Counsel
U.S. EPA - Region III