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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TX

REGIONAL HEARING CLERK
EPA REGION 6

IN THE MATTER OF:

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Dallas Steel Drums, Inc.

Consent Agreement and Final Order
USEPA Docket No. RCRA-06-2024-0945

RESPONDENT

CONSENT AGREEMENT AND FINAL ORDER

I. PRELIMINARY STATEMENT

1. This Consent Agreement and Final Order ("CAFO") is entered into by the United States Environmental Protection Agency, Region 6 ("EPA" or "Complainant") and Respondent, Dallas Steel Drums, Inc. ("Respondent" or "Dallas Steel Drums") and concerns the Dallas Steel Drums Dallas, TX Facility, at 2214 Singleton Boulevard, Dallas, TX 75212 (the "Facility").
2. Notice of this action has been given to the State of Texas, under Section 3008(a)(2) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6928(a)(2).¹

¹ On December 26, 1984, the State of Texas received final authorization for its base Hazardous Waste Management Program (49 FR 48300). Subsequent revisions have been made to the Texas Hazardous Waste Program and authorized by the EPA. Except as otherwise provided, all citations found within this order are to the "EPA-Approved Texas Statutory and Regulatory Requirements Applicable to the Hazardous Waste Management Program" dated December 2015, incorporated by reference under 40 C.F.R. § 272.2201(c)(1)(i) effective on April 10, 2020. 85 Fed. Reg. 20190 (April 10, 2020); 40 C.F.R. 272.2201: Texas State-Administered Program: Final Authorization. References and citations to the "EPA-Approved Texas Statutory and Regulatory Requirements Applicable to the Hazardous Waste Management Program" may vary slightly from the State of Texas' published version. The corresponding C.F.R. citations are also provided.

3. For the purpose of these proceedings, Respondent admits the jurisdictional allegations herein; however, the Respondent neither admits nor denies the specific factual allegations and conclusions of law contained in this CAFO. This CAFO states a claim upon which relief may be granted.
4. Respondent explicitly waives any right to contest the allegations or to appeal the proposed final order contained in this CAFO and waives all defenses that have been raised or could have been raised to the claim set forth in the CAFO.
5. Respondent and Complainant, by the execution and filing of this CAFO, have agreed to resolve only those violations and claims which are alleged herein.
6. Respondent consents to the issuance of this CAFO as the most appropriate means of settling EPA's allegations without any adjudication of issues of law or fact, consents to the assessment and payment of the civil penalty in the amount and by the method set out in this CAFO, and consents to the compliance order in this CAFO.
7. By their signatures to this CAFO, the Parties agree to the use of electronic signatures for this matter.

II. JURISDICTION

8. This CAFO is issued by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), as amended by the Hazardous and Solid Waste Amendments of 1984 and is simultaneously commenced and concluded through the issuance of this CAFO under 40 Code of Federal Regulations ("C.F.R.") §§ 22.13(b) and 22.18(b)(2) and (3).

9. Respondent agrees to undertake and complete all actions required by the terms and conditions of this CAFO. In any action by EPA or the United States to enforce the terms of this CAFO, Respondent agrees not to contest the authority or jurisdiction of EPA to issue or enforce this CAFO and agrees not to contest the validity of this CAFO or its terms or conditions.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

10. Respondent is a steel drum reconditioning company authorized to do business in the State of Texas.
11. Respondent is a "person" within the meaning of Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and 30 Texas Admin. Code § 3.2(25), [40 C.F.R. § 260.10].
12. Respondent owns or operates the Facility.
13. The Facility reconditions closed-head steel drums. The Facility also sells new containers, including steel or poly-drums of various sizes.
14. The Facility is a "facility" within the meaning of 30 Texas Admin. Code § 335.1(60), [40 C.F.R. § 260.10].
15. Pursuant to Section 3007 of RCRA, 42 U.S.C. § 6927, the EPA conducted an inspection on March 23, 2023, to determine Respondent's compliance with RCRA and the implementing regulations at the Facility (the "Inspection").
16. From the Inspection, EPA discovered that Respondent has generated multiple waste streams from its operations of the Facility, to include hazardous waste streams consisting of

unregistered paint filters, solvent rags, solvent rags contaminated with wash thinner (F003/F005), and pre-filter sump solids.

17. The waste streams identified in Paragraph 16 are "hazardous waste" as defined in 30 Texas Admin. Code § 335.1(70), [40 C.F.R. § 261.10].
18. From the Inspection, EPA determined that Respondent generated the hazardous waste streams identified in Paragraph 16 in quantities less than or equal to 100 kilograms and operated as a "Very Small Quantity Generator" of hazardous waste, as defined under 30 Texas Admin. Code §335.1, [40 C.F.R. Part 262], for the periods that such wastes remained onsite.
19. Respondent is a "generator" of "hazardous waste" as those terms are defined in 30 Texas Admin. Code §§ 335.1(66) & (70), [40 C.F.R. § 260.10].
20. As a generator of hazardous waste, Respondent is subject to Sections 3002 and 3010 of RCRA, 42 U.S.C. §§ 6922 and 6930, and the regulations set forth in 30 Texas Admin. Code Chapter 335, Subchapter C, [40 C.F.R Part 262].
21. EPA submitted to Respondent on January 9, 2024, a Notice of Potential Violation and Opportunity to Confer. In a conference call on January 30, 2024, EPA conferred with the Respondent regarding the violations alleged therein and provided an opportunity for Respondent to submit additional information and materials, which Respondent did on April 9, 2024.

IV. CLAIMS

Claim 1. Failure to make an adequate hazardous waste determination.

22. The allegations in Paragraphs 1-21 are realleged and incorporated by reference.
23. Pursuant to 30 Texas Admin. Code § 335.504, and 40 C.F.R. § 262.11, a person who generates a solid waste, as defined in 30 Texas Admin. Code § 335.1, must make an accurate determination as to whether that waste is a hazardous waste in order to ensure wastes are properly managed according to the applicable RCRA and Texas Administrative Code regulations.
24. During the Inspection, EPA identified steel drums containing 1) solvent rags contaminated with wash thinner, and 2) used solvent-based paint filters thrown in with regular trash. Additionally, partially full poly-drums were found to contain unknown liquids, believed to be rainwater, but contained trace amounts of other materials.
25. At all times relevant to this CAFO, Respondent failed to properly make hazardous waste determinations on two occasions, in violation of 30 Texas Admin. Code § 335.1 and 40 C.F.R. § 262.11.

Claim 2. Failure to notify state of waste stream.

26. The allegations in Paragraph 1-21 are realleged and incorporated by reference.
27. Pursuant to 30 Texas Admin. Code § 335.6, any person who intends to store, process, recycle, or dispose of industrial solid waste without a permit, as authorized under § 335.2(d), (f), or (h) of this title...shall notify the executive director using a method approved by the executive director, that storage, processing, recycling, or disposal activities are planned.
28. During the Inspection, EPA determined that Respondent did not notify the state of Texas regarding waste streams for: 1) pre-filter sump solids (to include “drum heels”); 2) paint

filters unregistered with the state of Texas; and 3) solvent rags, as an unregistered hazardous waste stream with the state of Texas.

29. At all times relevant to this CAFO, Respondent failed to meet the state of Texas notification, recordkeeping, and reporting requirements to notify of waste streams, in violation of 30 Texas Admin. Code § 335.6.

V. COMPLIANCE ORDER

30. Pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), Respondent is hereby ordered to take the following actions, and within 90 calendar days of the effective date of this CAFO, Respondent shall provide in writing the following:
- A. Respondent shall certify that it has assessed all its solid waste streams at the Dallas Steel Drums Facility to determine the accurate waste codes and has developed and implemented processes to ensure that Respondent is operating the Dallas Steel Drums Facility in compliance with RCRA and the regulations promulgated thereunder, including, but not limited to, processes, best practices, and training concerning: (a) making hazardous waste determinations; (b) handling hazardous wastes; (c) reporting, transporting, and disposing of hazardous waste; (d) preparing its manifests; and (e) meeting the requirements of the land disposal requirements;
 - B. Respondent shall certify that it has accurately and adequately complied with its RCRA Section 3010 notification for the Dallas Steel Drums Facility and within the prescribed time period in Section 3010; and

- C. Respondent shall provide, with its certification, a description of Respondent's processes, best practices, and training as described in subparagraph A above.
31. In all instances in which this CAFO requires written submission to EPA, the submittal made by Respondent shall be signed by an owner or officer of the Respondent and shall include the following certification:

"I certify under the penalty of law that this document and all its attachments were prepared by me or under my direct supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Copies of all documents required by this CAFO shall be sent to the following:

U.S. EPA, Region 6
Enforcement and Compliance Assurance Division (ECAD)
1201 Elm Street, Suite 500
Dallas, Texas 75270-2102
ATTN: Erin Young-Dahl

Where possible, notice shall be sent electronically by email to Enforcement Officer Erin Young-Dahl, respectively at youngdahl.erin@epa.gov.

VI. TERMS OF SETTLEMENT

A. Penalty Provisions

32. Pursuant to the authority granted in Section 3008 of RCRA, 42 U.S.C. § 6928, and upon consideration of the entire record herein, including the above referenced Findings of Fact and Conclusions of Law, which are hereby adopted and made a part hereof, upon the seriousness of the alleged violations, and Respondent's good faith efforts to comply with the applicable regulations, it is ordered that Respondent be assessed a civil penalty of **Eighteen-Thousand One-Hundred Thirty-Five Dollars and Forty-Five Cents (\$18,135.45)**.

33. This payment shall be made in six (6) installment payments of Three-Thousand Twenty-Two Dollars and Fifty-Eight Cents (\$3,022.58). The first payment shall be due on the effective date of the CAFO ("Effective Date"), the second payment due on the 30th day from the Effective Date, the third payment on the 60th day from the Effective Date, the fourth payment on the 90th day from the Effective Date, the fifth payment on the 120th day from the Effective Date, and the sixth and final payment due on the 150th day from the Effective date.

34. The following are Respondent's options for transmitting the penalties: Regular Mail, U.S. Postal Mail (including certified mail) or U.S. Postal Service Express Mail, the check should be remitted to:

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

Overnight Mail (non-U.S. Postal Service), the check should be remitted to:

U.S. Environmental Protection Agency
Government Lockbox 979078
3180 Rider Trail S.
Earth City, MO 63045

Wire Transfer:

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

The case name and docket number (In the Matter of Dallas Steel Drums Inc., Docket No. RCRA-06-2024-0945 shall be clearly documented on or within the chosen method of payment to ensure proper credit.

35. The Respondent shall send a simultaneous notice of such payment to the following:

U.S. EPA, Region 6
Enforcement and Compliance Assurance Division (ECAD)
1201 Elm Street, Suite 500
Dallas, Texas 75270-2102
ATTN: Erin Young-Dahl

Respondent's adherence to this request will ensure proper credit is given when penalties are received by EPA.

36. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, unless otherwise prohibited by law, EPA will assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest on the civil penalty assessed in this CAFO will begin to accrue on the effective date of the CAFO and will be recovered by EPA on any amount of the civil penalty that is not paid within thirty (30) calendar days of the civil penalty's due date and 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).
37. Moreover, the costs of the Agency's administrative handling overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). EPA will also assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) day period the penalty remains unpaid. In addition, a penalty charge of up to six percent (6%) per year will be assessed monthly on any portion of the debt which remains delinquent more than ninety (90) days. 40 C.F.R. § 13.11(b). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

B. Costs

38. Each party shall bear its own costs and attorney's fees. Furthermore, Respondent specifically waives its right to seek reimbursement of its costs and attorney's fees under the Equal Access to Justice Act (5 U.S.C. § 504), as amended by the Small Business Regulatory Enforcement Fairness Act (P.L. 04-121), and any regulations promulgated pursuant to those Acts.

C. Termination and Satisfaction

39. When Respondent believes that it has complied with all the requirements of this CAFO, including compliance with the Compliance Order and payment of the civil penalty, Respondent shall also certify this in writing and in accordance with the certification language set forth in Section IV (Compliance Order), Paragraph 31. Unless the EPA, Region 6 objects in writing within sixty (60) days of EPA's receipt of Respondent's certification, then this CAFO is terminated on the basis of Respondent's certification.

D. Effective Date of Settlement

40. This CAFO shall become effective upon filing with the Regional Hearing Clerk.

Dallas Steel Drums, Inc.
RCRA-06-2024-0945

THE UNDERSIGNED PARTIES CONSENT TO THE ENTRY OF THIS CONSENT AGREEMENT AND FINAL ORDER:

FOR THE RESPONDENT:

Date: 7/08/2024

BARRETT THOMAS

Dallas Steel Drums, Inc.
Barrett Thomas
Owner

FOR THE COMPLAINANT:

Date: July 8, 2024

Cheryl T. Seager

Digitally signed by CHERYL
SEAGER
Date: 2024.07.09 08:44:25
-04'00'

Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division

FINAL ORDER

Pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the foregoing CAFO is hereby ratified. This Final Order 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. This Final Order shall resolve only those causes of action alleged herein. Nothing in this Final Order shall be construed to waive, extinguish or otherwise affect Respondent's (or its officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. Respondent is ordered to comply with the terms of settlement and the civil penalty payment instructions as set forth in the CAFO. Pursuant to 40 C.F.R. § 22.31(b) this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Date: _____

Ryland, Renea Digitally signed by Ryland, Renea
Date: 2024.07.10 09:12:45 -05'00'

Thomas Rucki
Regional Judicial Officer

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Consent Agreement and Final Order was filed with me, the Regional Hearing Clerk, U.S. EPA - Region 6, 1201 Elm Street, Suite 500, Dallas, Texas 75270-2102, and that I sent a true and correct copy on this day in the following manner to the email addresses:

Copy via Email to Complainant, EPA:

sharma.ravi@epa.gov

Copy via Email to Respondent:

bthomas@dallassteeldrums.com
vvoss@dallassteeldrums.com
Dallas Steel Drums, Inc.
2214 Singleton Blvd.
Dallas, TX 75212

LORENA
VAUGHN

Digitally signed by LORENA
VAUGHN
Date: 2024.07.10 16:22:58
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Regional Hearing Clerk
U.S. EPA, Region 6