



UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX

In the matter of:	)	U.S. EPA Docket No.
	)	
	)	RCRA-09-2025-0043
CONTAINER MANAGEMENT SERVICES, LLC	)	
CAR000031526	)	CONSENT AGREEMENT AND
	)	FINAL ORDER PURSUANT TO
Respondent.	)	40 C.F.R. SECTIONS 22.13 AND
	)	22.18
_____	)	

CONSENT AGREEMENT

A. PRELIMINARY STATEMENT

1. This is a civil administrative enforcement action instituted pursuant to Section 3008(a)(1) of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. § 6928(a)(1), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, as codified at 40 C.F.R. Part 22 ("Consolidated Rules").
2. The Administrator has delegated enforcement authority under Section 3008 of RCRA, 42 U.S.C. § 6928, to the Regional Administrator of the EPA Region 9, who in turn has delegated this authority to the Director of the Enforcement and Compliance Assurance Division, hereinafter, "Complainant."
3. Respondent is Container Management Services, LLC, a Delaware corporation ("Respondent").
4. Complainant and Respondent have agreed to settle this action by entering into this Consent Agreement and Final Order ("CA/FO"), which contains the elements of a complaint required by 40 C.F.R. § 22.14(a)(1)-(3) and (8), simultaneously commences and concludes this penalty proceeding, as authorized by 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).
5. Complainant and Respondent agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their respective interest and in the public interest.

B. PARTIES BOUND

6. This CA/FO shall apply to and be binding on Respondent, Respondent's officers, directors, successors and assigns. Action or inaction of any persons, firms, contractors, employees, agents, or corporations acting under, through, or for Respondent shall not excuse any failure of Respondent to fully perform its obligations under this CA/FO. Changes in ownership, real property interest, or transfer of personal assets shall not alter Respondent's obligations under this CA/FO.

C. STATUTORY AND REGULATORY FRAMEWORK

7. Subtitle C of RCRA requires the EPA Administrator to promulgate regulations establishing a hazardous waste management program. Section 3006 of RCRA, 42 U.S.C. § 6926, provides, *inter alia*, that authorized state hazardous waste management programs are carried out under Subtitle C of RCRA. Therefore, a violation of any requirement of a law under an authorized state hazardous waste program is a violation of a requirement of Subtitle C of RCRA.
8. The State of California received authorization to administer the hazardous waste management program in lieu of the federal program pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, and 40 C.F.R. Part 271, on or about August 1, 1992. This authorization was updated on September 26, 2001 (*see* 66 FR 49118, September 26, 2001), on October 7, 2011 (*see* 76 FR 62303, October 7, 2011), and again on January 14, 2020 (*see* 85 FR 2038, as corrected [*see* 86 FR 29207, June 1, 2021]). The authorized hazardous waste program is established pursuant to the Hazardous Waste Control Law, Chapter 6.5 of Division 20 of the California Health and Safety Code, and the regulations promulgated thereunder at Title 22, Division 4.5 of the California Code of Regulations, 22 C.C.R. §§ 66001 *et seq.* The State is authorized for all the hazardous waste management regulations referenced in this CA/FO.¹
9. A violation of the State of California's authorized hazardous waste program, found at Health & Safety Code § 25100 *et seq.*, constitutes a violation of Subtitle C of RCRA and, therefore, a person who violates California's authorized hazardous waste program is subject to the powers vested in the EPA Administrator by Section 3008 of RCRA, 42 U.S.C. § 6928.
10. Section 3008 of RCRA, 42 U.S.C. § 6928, authorizes the EPA Administrator to issue orders assessing a civil penalty and/or requiring compliance immediately or within a specified time for violation of any requirement of Subtitle C of RCRA, Section 3001 of RCRA *et seq.*, 42 U.S.C. § 6921 *et seq.*

¹All citations to the "C.C.R." refer to Division 4.5 of Title 22 of the current California Code of Regulations. EPA is enforcing California hazardous waste management program requirements as approved and authorized by the United States. As a convenience, corresponding Federal citations are provided in brackets.

D. GENERAL ALLEGATIONS

11. On September 29, 2022, EPA conducted an inspection at Respondent's facility at 21301 Cloud Way, Hayward, California, CAR000031526 (the "Facility").
12. On October 5, 2022, EPA issued Respondent a "Compliance Evaluation Inspection Information/Document Request", which Respondent voluntarily complied with and responded to on October 31, 2022.
13. On December 6, 2022, EPA issued Respondent a "Compliance Evaluation Inspection Report" and request for information pursuant to Section 3007(a) of RCRA, which Respondent voluntarily complied with and responded to on January 5, 2023.
14. On July 25, 2023, EPA issued Respondent a second request for information pursuant to Section 3007(a) of RCRA, which Respondent voluntarily complied with and responded to on September 22, 2023.
15. On June 18, 2024, EPA issued Respondent a "Notice of Intent" to file a complaint pursuant to Section 3008(a) of RCRA, which Respondent acknowledged and responded to on July 24, 2024.
16. Based upon the findings EPA made during the inspections, and additional information obtained subsequent to the inspection, EPA alleged in its June 18, 2024 Notice of Intent that Respondent violated California Health & Safety Code § 25100 et seq. and the regulations adopted pursuant thereto, as approved and authorized by the United States.
17. Respondent is a "person" as defined in 22 C.C.R. § 66260.10 [see also 40 C.F.R. § 260.10].
18. Respondent is the "owner" and/or "operator" of a facility as defined in 22 C.C.R. § 66260.10 [see also 40 C.F.R. § 260.10].
19. Respondent is a "generator" of hazardous waste as defined in 22 C.C.R. § 66260.10 [see also 40 C.F.R. § 260.10].
20. Respondent is or has been engaged in "storage," "transportation," and/or "disposal" of "hazardous waste" as defined in 22 C.C.R. §§ 66260.10 and 66261.3 [see also 40 C.F.R. §§ 260.10 and 261.3].
21. At the Facility, Respondent generated and accumulated "hazardous waste" as defined in California Health & Safety Code § 25117, and 22 C.C.R. §§ 66260.10 and 66261.3 [see also RCRA § 1004(5), and 40 C.F.R. §§ 260.10 and 261.3]. These hazardous wastes

include but are not limited to the following EPA hazardous waste codes: F003, F005, D001, D002, D018 and D035

E. ALLEGED VIOLATIONS

Count I

Failure to make an accurate hazardous waste determination

22. Paragraphs 1 through 21 are incorporated herein by reference as if set forth here in their entirety.
23. 22 C.C.R. § 66262.11 [*see also* 40 C.F.R. § 262.11] provides that a person who generates a waste, as defined by 22 C.C.R. § 66261.2, must determine whether that waste is a hazardous waste. Pursuant to 22 C.C.R. §§ 66262.11(a)-(b)², to make such a determination, the generator shall first determine if the waste is excluded from regulation under 22 C.C.R. § 66261.4 or Section 25143.2 of the California Health and Safety Code, shall then determine if the waste is listed as a hazardous waste in Title 22, Division 4.5, Chapter 11, Article 4 of the California Code of Regulations, 22 C.C.R. §§ 66261.30-66261.50, and shall then determine if the waste exhibits any of the characteristics set forth Title 22, Division 4.5, Chapter 11, Article 3 of the California Code of Regulations, 22 C.C.R. §§ 66261.20-66261.24.
24. During a September 2022 inspection of Respondent's Facility, EPA observed eight full 275-gallon totes of spent process water adjacent to Respondent's outdoor central accumulation area ("CAA"). CMS provided EPA with a copy of the waste profile and manifest for the transportation and disposal of the spent process water as non-RCRA (CA-only) hazardous waste (waste code CA 123, unspecified alkaline solution).
25. Based upon a review of the waste profiles and laboratory analyses provided by Respondent during and following the inspection, EPA asserted that approximately half of Respondent's spent process water waste stream, including the spent process waste in the eight totes observed during the September 2022 inspection, was D002 corrosive RCRA hazardous waste.
26. Based upon the information and documents provided by Respondent, EPA asserted that while Respondent determined the spent process water waste stream stored in totes to be non-RCRA hazardous waste with waste code CA 123, it failed to determine that at certain totes with spent process water met the characteristic of corrosivity (EPA hazardous waste code D002) for RCRA hazardous waste.

² The State of California amended this regulation subsequent to its most recent federal authorization. Subsequent amendments by the State to the federally authorized version of the State regulation do not affect the applicable portion of the requirement and, therefore, have no effect on this enforcement action.

27. By failing to determine whether all totes with spent process water waste stream stored at the Facility for off-site disposal exhibited one or more characteristics of hazardous waste in Title 22, Division 4.5, Chapter 11, Article 4 of the California Code of Regulations, 22 C.C.R. §§ 66261.20-66261.24, EPA alleges that Respondent failed to make an accurate hazardous waste determination, a violation of 22 C.C.R. § 66262.11.

Count II

Failure to determine whether waste needs to be treated to meet Land Disposal Requirements

28. Paragraphs 1 through 21 are incorporated herein by reference as if set forth here in their entirety.
29. 22 C.C.R. § 66268.7(a)(1) [*see also* 40 C.F.R. § 268.7(a)(1)] provides that a person who generates a waste, as defined by 22 C.C.R. § 66261.2, must determine whether that waste must be treated in order to meet the requirements of land disposal regulations.
30. 22 C.C.R. § 66268.7(a)(2) [*see also* 40 C.F.R. § 268.7(a)(2)] provides that if the waste referenced in Paragraph 29 does not meet the treatment standard or if the generator chooses not to make the determination of how its waste shall be treated, with the initial shipment of waste to each treatment or storage facility, the generator shall send a one-time written notice to each treatment or storage facility receiving the waste, and place a copy in the file.
31. Based on a review of Respondent's waste manifests, EPA asserted that on at least 30 occasions between 2019 and 2022, Respondent shipped certain totes with spent process water waste off site as non-RCRA (CA-only) hazardous waste with waste code CA 123. None of these waste shipments included the D002 waste code on its hazardous waste manifests. No land disposal determination accompanied these waste shipments, and the waste was not sent to a hazardous waste treatment facility in compliance with the land disposal requirements of 22 C.C.R. §§ 66264.13 and 66268(b).
32. By failing to determine whether the spent process waste was required to be treated in order to meet land disposal requirement, EPA alleges Respondent violated 22 C.C.R. § 66268.7 [*see also* 40 C.F.R. § 268.7].

Count III

Accumulation of hazardous waste over 90 days

33. Paragraphs 1 through 21 are incorporated herein by reference as if set forth here in their entirety.

34. 22 C.C.R. § 66262.34(a)³ [*see also* 40 C.F.R. § 262.17(a)] exempts generators of hazardous waste from the permit requirements of 22 C.C.R. § 66270.1 [*see also* 40 C.F.R. § 270.1] so long as they accumulate hazardous waste on-site for no longer than 90 days.
35. During the September 2022 inspection, EPA observed three containers in which hazardous waste had accumulated for over 90 days based on the accumulation start dates marked on their labels.
36. EPA alleges that by failing to satisfy the requirements of 22 C.C.R. § 66262.34(a) [*see also* 40 C.F.R. § 262.17(a)], Respondent failed to meet the conditional requirement for permit exemption and therefore was operating a hazardous waste management facility in violation of 22 C.C.R. § 66270.1 [*see also* 40 C.F.R. § 270.1].

Count IV

Failure to properly label a hazardous waste container

37. Paragraphs 1 through 21 and 34 through 36 are incorporated herein by reference as if set forth here in their entirety.
38. 22 C.C.R. § 66262.34(a)(3)⁴ [*see also* 40 C.F.R. § 262.17(a)(5)] allows generators to accumulate hazardous waste on-site for up to 90 days provided that they meet certain conditions, including that the generator complies with the requirements listed in subsection (f) of 22 C.C.R. § 66262.34. Subsection (f) requires that the date upon which each period of accumulation begins shall be clearly marked and visible for inspection on each container and portable tank; the date of the applicable accumulation period shall be marked and visible for inspection on each container and tank; and each container and tank shall be labelled or marked clearly with the words “Hazardous Waste” and the labels shall include the following information: the composition and physical state of the wastes; a statement(s) calling attention to the particular hazardous properties of the waste; and the name and address of the person producing the waste.
39. 22 C.C.R. § 66262.34(e)⁵ [*see also* 40 C.F.R. § 262.15(a)(5)] exempts generators of hazardous waste from the permit requirements of 22 C.C.R. § 66270.1 [*see also* 40 C.F.R.

³ This California regulation has been updated and renumbered subsequent to its most recent federal authorization and can now be found at 22 C.C.R. § 66262.17(a). *See* footnote 1.

⁴ This California regulation has been updated and renumbered subsequent to its most recent federal authorization and can now be found at 22 C.C.R. § 66262.17(a)(5). *See* footnote 1.

⁵ This California regulation has been updated and renumbered subsequent to its most recent federal authorization and can now be found at 22 C.C.R. § 66262.15(a)(5). *See* footnote 1.

§ 270.1] and allows generators to accumulate as much as 55 gallons of hazardous waste on-site for up to one year provided that they meet certain conditions, including: that the waste is accumulated in containers, other than tanks, at the initial accumulation point that is at or near the area where the waste is generated and that is under the control of the operator of the process generating the waste; the initial date of waste accumulation is clearly marked and visible for inspection on each container; and the generator complies with subsection (f)(3) of 22 C.C.R. § 66262.34. Subsection (f)(3) requires that each container and tank shall be labelled or marked clearly with the words “Hazardous Waste” and the labels shall include the following information: the composition and physical state of the wastes; a statement(s) which call attention to the particular hazardous properties of the waste; and the name and address of the person producing the waste.

40. During the September 2022 inspection, EPA observed that labels on certain drums and totes did not comply with the aforementioned labelling requirements.
41. Based on EPA’s inspection and additional information provided by Respondent after the inspection, by failing to clearly mark or indicate containers with the words “Hazardous Waste,” the composition and physical state of the waste, the accumulation start date and an indication of the hazardous properties of the waste, Respondent failed to meet the labelling and marking requirements, a violation of 22 C.C.R. § 66262.34(e) and 22 C.C.R. § 66262.34(f).

Count V

Failure to keep Satellite Area Accumulation hazardous waste containers closed except when adding and removing waste

42. Paragraphs 1 through 21 and 34 through 36 are incorporated herein by reference as if set forth here in their entirety.
43. 22 C.C.R. § 66262.34(e)⁶ [see also 40 C.F.R. § 262.15(a)(4)] exempts generators of hazardous waste from the permit requirements of 22 C.C.R. § 66270.1 [see also 40 C.F.R. § 270.1] and allows generators to accumulate as much as 55 gallons of hazardous waste on-site for up to one year provided that they meet certain conditions, including: that the waste is accumulated in containers, other than tanks, at the initial accumulation point that is at or near the area where the waste is generated and that is under the control of the operator of the process generating the waste; and that the generator complies with section 22 C.C.R. 66265.173(a), which mandates that containers storing hazardous waste shall always be closed during storage, except when necessary to add or remove waste.

⁶This California regulation has been updated and renumbered subsequent to its most recent federal authorization and can now be found at 22 C.C.R. § 66262.17(a)(1)(D)(1). See footnote 1.

44. During the September 2022 inspection, EPA observed that a container of hazardous waste in the satellite area accumulation area was missing a lid, but no personnel were at the time adding, removing or consolidating hazardous wastes.
45. The failure to keep containers closed during accumulation except when necessary to add, remove or consolidate waste, is a violation of 22 C.C.R. § 66262.34(e)(1)(D) and 22 C.C.R. § 66265.173(a).

Count VI

Failure to maintain personnel training records

46. Paragraphs 1 through 21 and 34 through 36 above are incorporated herein by reference as if set forth here in their entirety.
47. 22 C.C.R. § 66262.34(a)(4)⁷ [see also 40 C.F.R. § 262.17(a)(7)] allows generators to accumulate hazardous waste on-site for up to 90 days provided that they meet certain conditions, including that the generator complies with the personnel training requirements in 22 C.C.R. § 66265.16⁸ [see also 40 C.F.R. § 262.17(a)(7)].
48. The personnel training requirements provide, *inter alia*, that training records on current personnel shall be kept until closure of the facility and training records on former employees shall be kept for at least three years from the date the employee last worked at the facility, 22 C.C.R. § 66265.16(e)⁹ [see also 40 C.F.R. § 262.17(a)(7)(v)].
49. Based on information provided by CMS to EPA, EPA asserted that Respondent did not maintain complete records of training for at least one employee for calendar years 2019 or 2020.
50. By not maintaining complete personnel training records on current personnel until the closure of the facility and/or on former employees for at least three years from the date the employee last worked at the Facility, Respondent failed to comply with the personnel training requirements of 22 C.C.R. § 66265.16 [see also 40 C.F.R. § 262.17(a)(7)].

⁷ This California regulation has been updated and renumbered subsequent to its most recent federal authorization and can now be found at 22 C.C.R. § 66262.17(a)(7). See footnote 1.

⁸ This California regulation has been updated and renumbered subsequent to its most recent federal authorization and can now be found at 22 C.C.R. § 66262.17(a)(7)(E). See footnote 1.

⁹ See footnote 2.

51. EPA alleges that by failing to satisfy the requirements of 22 C.C.R. § 66265.16 [*see also* 40 C.F.R. § 262.17(a)(7)], Respondent violated of 22 C.C.R. § 66270.1 [*see also* 40 C.F.R. § 270.1].

F. CIVIL PENALTY

52. Respondent agrees to pay a civil penalty in the amount of TWO HUNDRED AND SIX THOUSAND, SIX HUNDRED AND FIFTY DOLLARS (\$206,650) (“Assessed Penalty”) within thirty (30) calendar days of the Effective Date of this CA/FO. The Effective Date of this CA/FO as defined in Section N, below, is the date the Final Order, signed by the Regional Judicial Officer, is filed with the Regional Hearing Clerk.

53. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website:

<https://www.epa.gov/financial/makepayment>. For additional instructions see:
<https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

54. When making a payment, Respondent shall:

- a. Identify every payment with Respondent’s name and the docket number of this Agreement, RCRA-09-2025-0043.
- b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve proof of such payment to the following persons via electronic mail:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 9
R9HearingClerk@epa.gov

Mark Anthony Relon
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 9
relon.markanthony@epa.gov

and

U.S. Environmental Protection Agency
Cincinnati Finance Center
CINWD_AcctsReceivable@epa.gov

“Proof of payment” means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been

made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent's name.

55. Interest, Charges, and Penalties on Late Payments. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay the full amount of the Assessed Penalty per this Agreement, EPA is authorized to recover, in addition to the amount of the unpaid Assessed Penalty, the following amounts.

- c. Interest. Interest begins to accrue from the Effective Date. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. To protect the interests of the United States the rate of interest is set at the IRS [**choose "standard" or "large corporate"**] underpayment rate, any lower rate would fail to provide Respondent adequate incentive for timely payment.
- d. Handling Charges. Respondent will be assessed monthly a charge to cover EPA's costs of processing and handling overdue debts. If Respondent fails to pay the Assessed Penalty in accordance with this Agreement, EPA will assess a charge to cover the costs of handling any unpaid amounts for the first thirty (30) day period after the Filing Date. Additional handling charges will be assessed every thirty (30) days, or any portion thereof, until the unpaid portion of the Assessed Penalty as well as any accrued interest, penalties, and other charges are paid in full.
- e. Late Payment Penalty. A late payment penalty of six percent (6%) per annum, will be assessed monthly on all debts, including any unpaid portion of the Assessed Penalty, interest, penalties, and other charges, that remain delinquent more than ninety (90) days. Any such amounts will accrue from the Filing Date.

56. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Agreement, EPA may take additional actions. Such actions EPA may take include, but are not limited to, the following.

- f. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14.
- g. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.

- h. Suspend or revoke Respondent's licenses or other privileges or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, per 40 C.F.R. § 13.17.
- i. Refer this matter to the United States Department of Justice for litigation and collection, per 40 C.F.R. § 13.33.

57. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.

58. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Agreement shall not be deductible for purposes of federal taxes.

G. ADMISSIONS AND WAIVERS OF RIGHTS

59. In accordance with 40 CFR § 22.18(b), for the purpose of this proceeding, Respondent:

- a) admits the jurisdictional allegations of this CA/FO;
- b) neither admits nor denies specific factual allegations contained in this CA/FO;
- c) consents to the assessment of any stated civil penalty and to any conditions specified in this CA/FO; and
- d) waives any right to contest the allegations and its right to appeal the proposed final order accompanying this consent agreement.

60. By signing this Consent Agreement, Respondent waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the final order accompanying the consent agreement.

H. CERTIFICATION OF COMPLIANCE

61. In executing this CA/FO, Respondent certifies under penalty of law to EPA that it has taken all steps necessary to return to full compliance with RCRA, 42 U.S.C. § 6901 *et seq.*, and its implementing regulations.

I. DELAY IN PERFORMANCE/STIPULATED PENALTIES

62. In the event Respondent fails to meet any requirement set forth in this CA/FO, Respondent shall pay stipulated penalties as follows: FIVE HUNDRED DOLLARS (\$500) per day for the first to fifteenth day of delay, ONE THOUSAND DOLLARS (\$1,000) per day for the sixteenth to thirtieth day of delay, and FIVE THOUSAND DOLLARS (\$5,000) per day for each day of delay thereafter. For the purposes of this Section, Respondent's obligation to meet any and all requirements set for this in this CA/FO shall include completion of any and all activities required under this CA/FO in a manner acceptable to EPA and within the specified time schedules in and approved under this CA/FO.
63. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations.
64. Stipulated penalties shall begin to accrue on the day after performance is due and shall continue to accrue through the final day until performance is complete. All stipulated penalties owed to EPA shall be due within thirty (30) days of receipt by Respondent of a notification of noncompliance. Such notification shall describe the noncompliance and shall indicate the amount of penalties due.
65. In addition to any stipulated penalties assessed, interest and penalties shall accrue in accordance with 40 C.F.R. § 13.11.
66. Payment of stipulated penalties shall be made in accordance with the procedure set forth for payment of penalties in Section F of this CA/FO.
67. The payment of stipulated penalties specified in this Section shall not be deducted by Respondent or any other person or entity for federal taxation purposes.
68. Notwithstanding any other provision of this Section, EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this CA/FO.

K. RESERVATION OF RIGHTS

69. In accordance with 40 C.F.R. § 22.18(c), full compliance with this CA/FO resolves Respondent's liability for any and all claims for the alleged violations and civil penalties by EPA based upon the facts alleged or which could have been alleged in the Notice of Intent or set forth in this CA/FO or Subtitle C of RCRA based upon the State of California's authorized hazardous waste laws and regulations, Health & Safety Code 25100 *et seq.*, and Subtitle C of RCRA.
70. This CA/FO is not a permit or modification of any existing permit issued pursuant to any federal, state, or local laws or regulations, and does not affect the right of EPA to pursue

any other potential violations of RCRA and accompanying the California Health & Safety Code hazardous waste provisions, or other laws not alleged in this CA/FO. This CA/FO shall in no way relieve or affect Respondent's obligations under any applicable federal, state or local laws, regulations, or permits.

71. EPA and Respondent agree that by entering into this CA/FO and paying a civil penalty or taking any other action required pursuant to this CA/FO, Respondent does not admit and nothing in this CA/FO shall be construed as an admission of any factual allegations, legal conclusions, potential violations, or liability herein or otherwise related to Respondent's Facility operations or management of potential hazardous waste or investigations by EPA pertaining to the issuance of the Notice of Intent or this CA/FO, including but not limited to any liability arising from Respondent's agreement to pay a civil penalty for the alleged improper characterization, management, storage, treatment, transportation or disposal of hazardous wastes as alleged herein.

L. OTHER CLAIMS

72. Except as set forth in this CA/FO, nothing in this CA/FO shall constitute or be construed as a release by EPA by or against any other person, firm, partnership, entity or corporation from any other claim, cause of action, liability, or demand in law or equity arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from the Facility.

M. MISCELLANEOUS

73. This CA/FO can be signed in counterparts.
74. The headings in this CA/FO are for convenience of reference only and shall not affect interpretation of this CA/FO.
75. Each party to this action shall bear its own costs and attorneys' fees.
76. EPA and Respondent consent to entry of this CA/FO without further notice.
77. By signing this CAFO, Respondent acknowledges that this CA/FO will be available to the public and agrees that this CAFO does not contain any confidential business information or personally identifiable information.
78. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service ("IRS") annually, a completed IRS Form 1098-F ("Fines, Penalties, and Other Amounts") with respect to any court order or settlement agreement (including administrative settlements), that require a payor to pay an

aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor's violation of any law or the investigation or inquiry into the payor's potential violation of any law, including amounts paid for "restitution or remediation of property" or to come "into compliance with a law." EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number ("TIN"), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. In order to provide EPA with sufficient information to enable it to fulfill these obligations, EPA herein requires, and Respondent herein agrees, that:

- a. Respondent shall complete an IRS Form W-9 ("Request for Taxpayer Identification Number and Certification"), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
- b. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent's correct TIN or that Respondent has applied and is waiting for issuance of a TIN;
- c. Respondent shall email its completed Form W-9 to Dana Sherrer in EPA's Cincinnati Finance Center at sherrer.dana@epa.gov, within 30 days after the Effective Date of this CA/FO, and EPA recommends encrypting IRS Form W-9 email correspondence; and
- d. In the event that Respondent has certified in its completed IRS Form W-9 that it has applied for a TIN and that TIN has not been issued to Respondent within 30 days after the Effective Date of this CA/FO, then Respondent, using the same email address identified in the preceding sub-paragraph, shall further:
 - i. notify EPA's Cincinnati Finance Center of this fact, via email, within 30 days after the 30 days after the Effective Date of this CA/FO; and
 - ii. provide Dana Sherrer of EPA's Cincinnati Finance Center with Respondent's TIN, via email, within five (5) days of Respondent's issuance and receipt of the TIN.

N. EFFECTIVE DATE

79. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), the effective date of this CA/FO (Effective Date) shall be the date that the Final Order contained in this CA/FO, having been approved and issued by the Regional Judicial Officer, is filed with the Regional Hearing Clerk.

IT IS SO AGREED.

FOR RESPONDENT CONTAINER MANAGEMENT SERVICES LLC:

Aug 28, 2025

Date



Christian Stavig
President

FOR COMPLAINANT, U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION IX:

**AMY MILLER-
BOWEN**

Digitally signed by AMY MILLER-
BOWEN
Date: 2025.09.09 15:56:47 -07'00'

Amy Miller-Bowen, Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region IX

FINAL ORDER

IT IS HEREBY ORDERED that this Consent Agreement and Final Order pursuant to 40 C.F.R. Sections 22.13 and 22.18 (U.S. EPA Docket No. RCRA 09-2025-0043) be entered and that Respondent pay a civil penalty of TWO HUNDRED AND SIX THOUSAND, SIX HUNDRED AND FIFTY DOLLARS (\$206,650), due within thirty (30) days from the Effective Date of this Consent Agreement and Final Order, in accordance with all terms and conditions of this Consent Agreement and Final Order.

This Final Order shall be effective upon filing by the Regional Hearing Clerk.

Beatrice Wong
Regional Judicial Officer
United States Environmental Protection Agency,
Region IX

CERTIFICATE OF SERVICE

I certify that the original of the fully executed Consent Agreement and Final Order in the matter of Container Management Services, LLC (Docket No. RCRA-09-2025-0043) was filed by the Regional Hearing Clerk, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, and that a true and correct copy of the same was served on the parties, via electronic mail, as indicated below:

RESPONDENT(S): Joe Gresenz
Director of Operations
Container Management Services, LLC
21301 Cloud Way
Hayward, CA 94545
Jgresenz@myerscontainer.com

COMPLAINANT: Andrew Helmlinger
Supervisory Attorney Adviser
U.S. EPA – Region IX
Hazardous Waste Section I (ORC-3-1)
75 Hawthorne Street
San Francisco, CA 94105
Helmlinger.Andrew@epa.gov

Ponly Tu
Regional Hearing Clerk
U.S. EPA – Region IX