

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

<b>In the Matter of:</b>	)	<b>Docket No. TSCA-05-2025-0019</b>
	)	
<b>Environmental Enterprises, Inc.</b>	)	<b>Consent Agreement and Final Order</b>
<b>Cincinnati, OH,</b>	)	<b>Under Section 16(a) of the Toxic</b>
	)	<b>Substances Control Act,</b>
	)	<b>15 U.S.C §2615 (a)</b>
<b>Respondent.</b>	)	
_____	)	

**Consent Agreement and Final Order****Preliminary Statement**

1. This is a civil administrative action commenced and concluded pursuant to Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C §2615(a), and Sections 22.1(a)(5), 22.13(b), 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 Code of Federal Regulations (C.F.R.) §§ 22.1(a)(5), 22.13(b), and 22.18(b)(2) and (3).

2. The Complainant is the Director of the Enforcement and Compliance Assurance Division, United States Environmental Protection Agency, Region 5 (U.S. EPA).

3. Respondent is Environmental Enterprises, Inc. (Respondent), a business operating under the laws of the State of Ohio, with a place of business at 4650 Spring Grove Avenue Cincinnati, Ohio 45232.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the

adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO, and to the terms of this CAFO.

### **Jurisdiction and Waiver of Rights**

7. Jurisdiction for this action is conferred upon U.S. EPA by Section 16 of TSCA, 42 U.S.C. § 2615(a).

8. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

9. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO. 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 this CAFO.

### **Statutory and Regulatory Background**

10. Section 6(e)(1) of TSCA, 15 U.S.C. § 2605(e)(1), requires EPA to promulgate the Polychlorinated Biphenyls (PCB) disposal and marking regulations.

11. EPA promulgated the PCB Manufacturing, Processing, Distribution in Commerce and Use Prohibitions regulations (PCB Regulations) at 40 C.F.R. Part 761. See 43 Fed. Reg. 7150 (February 17, 1978) and 44 Fed. Reg. 31514, (May 31, 1979). The PCB Regulations were subsequently amended and partially recodified at 40 C.F.R. Part 761.

12. 40 C.F.R. § 761.1(b)(1) states in part that the PCB Regulations at 40 C.F.R. Part 761 apply to all persons who distribute in commerce, use, or dispose of PCBs or PCB items.

13. 40 C.F.R. § 761.1(b)(1) states in part that substances regulated by 40 C.F.R. Part 761

include dielectric fluids, oils, waste oils, sludges, slurries, sediments, soils, materials containing PCBs as a result of spills, and other chemical substances or combinations of substances.

14. 40 C.F.R. § 761.3 defines “person” as any natural or judicial person including any individual, corporation, partnership, or association.

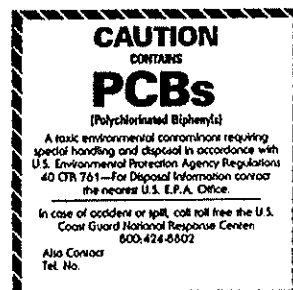
15. 40 C.F.R. § 761.3 defines “disposal” as intentionally or accidentally to discard, throw away, or otherwise complete or terminate the useful life of PCBs and PCB items. Disposal includes spills, leaks, and other uncontrolled discharges of PCBs as well as actions related to containing, transporting, destroying, degrading, decontaminating, or confining PCBs and PCB items.

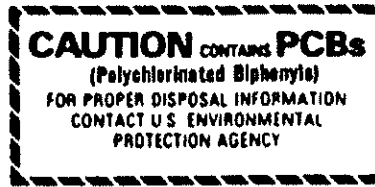
16. 40 C.F.R. § 761.3 defines “PCB Container” as any package, can, bottle, bag, barrel, drum, tank, or other device that contains PCBs whose surface(s) has been in direct contact with PCBs.

17. 40 C.F.R. § 761.40(a)(1) and (10) requires that any PCB Containers and storage areas used to store PCBs and PCB items for disposal, in existence after July 1, 1978, shall be marked in accordance with 40 C.F.R. § 761.45.

18. 40 C.F.R. § 761.45 includes a depiction of formats that must be used for the required markings as follows:

a. Large PCB Mark – ML:





b. Small PCB Mark – M<sub>s</sub>:

19. 40 C.F.R. § 761.65 applies to the storage for disposal of PCBs at concentrations of 50 ppm or greater.

20. 40 C.F.R. § 761.65(a)(1) states that any PCB waste shall be disposed of within 1-year from the date it is determined to be PCB waste, and the decision was made to dispose of it.

21. 40 C.F.R. § 761.65(d) requires all commercial storers of waste to obtain an approval to operate commercial facilities for the storage of PCB waste.

22. Section 15(1) of TSCA, 15 U.S.C. § 2614(1), states in part that it is unlawful for any person to fail or refuse to comply with any requirement of TSCA or any rule promulgated under TSCA. See also 40 C.F.R. § 761.1(d).

23. Section 16(a)(1) of TSCA, 15 U.S.C. § 2615(a)(1), states in part that any person who violates Section 15 of TSCA shall be liable to the United States for a civil penalty. See also 40 C.F.R. § 761.1(d).

#### **Factual Allegations and Alleged Violations**

24. Respondent is a “person” as defined by 40 C.F.R. §761.3 and is subject to the requirements and prohibitions set forth at 40 C.F.R. Part 761.

25. Respondent is the “owner” and “operator,” of the facility at 4650 Spring Grove Avenue in Cincinnati, Ohio (Facility).

26. Respondent is commercial storer of waste.

27. On or about June 11, 2018, the U.S. EPA issued the final federal TSCA PCBs storage approval for the Respondent’s Facility (Approval) pursuant to 40 C.F.R. § 761.65(d).

28. The Approval allows the Respondent to store PCB waste for disposal in an area called the Curbed PCB Storage Area (PCB Storage Area).

29. Condition II(D) of the Approval requires the Respondent ensure, through documented training, that personnel who are directly involved with handling PCBs and PCB items, are familiar with the requirements of the Approval and the requirements at 40 C.F.R. Part 761.

30. On or about May 17, 2024, a representative of the U.S. EPA inspected the Respondent's Facility (Inspection).

31. During the Inspection, the U.S. EPA observed an on-site lab at the Facility where samples are tested for PCBs (on-site lab).

32. Samples containing PCBs are retained in the on-site lab until they are moved to the Facility's PCB Storage Area.

33. During the Inspection, U.S. EPA observed one storage shelf marked "PCB WASTE" in the on-site lab.

34. The storage shelf marked "PCB WASTE" was not marked with a PCB label, as required by 40 C.F.R §§ 761.40(a)(10) and 761.45.

35. During the Inspection, U.S. EPA observed two containers in the PCB Storage Area that:

- a. were placed in the PCB Storage Area for disposal,
- b. contained PCBs at concentration of 50 ppm or greater, and
- c. were not disposed of within 1-year from the date each was determined to be PCB waste, and a decision was made to dispose of them, as required by 40 C.F.R. § 761.65(a)(1).

36. During the Inspection, U.S. EPA learned that Respondent did not have training for its

new employees involved with managing PCBs and was not able to produce any documented training showing that its personnel handling PCBs were familiar with the requirements set forth in Respondent's Approval and 40 C.F.R. Part 761, as required by Approval Condition II(D).

### **Count 1**

37. Complainant incorporates the above paragraphs of the CAFO as if set forth in this paragraph.

38. Respondent's failure to mark a storage area in the on-site lab, as required 40 C.F.R. § 761.40(a)(10), constitutes an unlawful act pursuant to Section 15(1) of TSCA, 15 U.S.C. § 2614(1).

39. Respondent's violation of Section 15(1) of TSCA, 15 U.S.C. § 2614(1) subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 16(a)(1) of TSCA, 15 U.S.C. § 2615(a)(1).

### **Count 2**

40. Complainant incorporates the above paragraphs of the CAFO as if set forth in this paragraph.

41. Respondent's failure to dispose of two containers of PCB waste within 1 year from the date each was determined to be PCB waste, as required by 40 C.F.R. § 761.65(a)(1), constitutes an unlawful act pursuant to Section 15(1) of TSCA, 15 U.S.C. § 2614(1).

42. Respondent's violation of Section 15(1) of TSCA, 15 U.S.C. § 2614(1) subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 16(a)(1) of TSCA, 15 U.S.C. § 2615(a)(1).

### **Count 3**

43. Complainant incorporates the above paragraphs of the CAFO as if set forth in this

paragraph.

44. Respondent's failure to have training for its new employees involved with managing PCBs and failure to produce any documented training showing that its personnel handling PCBs were familiar with the requirements set forth in Respondent's Approval and 40 C.F.R. Part 761, as required by Approval Condition II(D), constitutes an unlawful act pursuant to Section 15(1) of TSCA, 15 U.S.C. § 2614(1).

45. Respondent's violation of Section 15(1) of TSCA, 15 U.S.C. § 2614(1) subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 16(a)(1) of TSCA, 15 U.S.C. § 2615(a)(1).

#### **Civil Penalty**

46. Pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, Complainant determined that an appropriate civil penalty to settle this action is \$18,941. In determining the penalty amount, Complainant considered the seriousness of the violation and any good faith efforts to comply with the applicable requirements. Complainant also considered U.S. EPA's "Polychlorinated Biphenyls (PCB) Penalty Policy," dated April 9, 1990. Respondent agrees to pay a civil penalty in the amount of \$18,941 ("Assessed Penalty") within thirty (30) days after the date the Final Order ratifying this Agreement is filed with the Regional Hearing Clerk ("Filing Date").

47. 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 U.S. EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

48. When making a payment, Respondent shall:

- a. Identify every payment with Respondent's name and the docket number of this Agreement, TSCA-05-2025-0019.
- b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve proof of such payment to the following person(s):

Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 5  
[r5hearingclerk@epa.gov](mailto:r5hearingclerk@epa.gov)

Jaime L. Brown  
Land Enforcement and Compliance Assurance Branch  
U.S. Environmental Protection Agency, Region 5  
[Brown.Jaime.L@epa.gov](mailto:Brown.Jaime.L@epa.gov) and  
[R5LEECAB@epa.gov](mailto:R5LEECAB@epa.gov)

Nidhi K. O'Meara  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 5  
[Omeara.nidhi@epa.gov](mailto:Omeara.nidhi@epa.gov)

U.S. Environmental Protection  
Agency Cincinnati Finance Center  
Via electronic mail to:  
[CINWD\\_AcctsReceivable@epa.gov](mailto: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 U.S. EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent's name.

49. 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, U.S. EPA is authorized to recover, in addition to the amount of the unpaid Assessed Penalty, the following amounts.

- a. Interest. Interest begins to accrue from the Filing 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 standard underpayment rate, any lower rate would fail to provide Respondent adequate incentive for timely payment.

- b. Handling Charges. Respondent will be assessed monthly a charge to cover U.S. EPA's costs of processing and handling overdue debts. If Respondent fails to pay the Assessed Penalty in accordance with this Agreement, U.S. 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.
- c. 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.

50. 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, U.S. EPA may take additional actions. Such actions U.S. EPA may take include, but are not limited to, the following.

- a. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14.
- b. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States 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.
- c. Suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with U.S. EPA or engaging in programs U.S. EPA sponsors or funds, per 40 C.F.R. § 13.17.
- d. Refer this matter to the United States Department of Justice for litigation and collection, per 40 C.F.R. § 13.33.

51. 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.

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

### **General Provisions**

53. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: [Omeara.nidhi@epa.gov](mailto:Omeara.nidhi@epa.gov) (for Complainant), and [ternstes@eeienv.com](mailto:ternstes@eeienv.com) (for Respondent). Respondent understands that the CAFO will become publicly available upon filing.

54. Respondent's full compliance with this CAFO shall only resolve Respondent's liability for federal civil penalties under Section 16(a) of the TSCA, 15 U.S.C. §1615(a) for the violations alleged in this CAFO.

55. This CAFO does not affect the right of U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

56. This CAFO does not affect Respondent's responsibility to comply with TSCA and other applicable federal, state, local laws or permits.

57. Respondent certifies that it is complying fully with TSCA and the PCB Regulations.

58. The terms of this CAFO bind Respondent, its successors, and assigns.


59. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

60. Each party agrees to bear its own costs and attorney's fees in this action.

61. This CAFO constitutes the entire agreement between the parties.

**Environmental Enterprises, Inc., Respondent**

6-12-2025  
Date

  
\_\_\_\_\_  
Timothy Ernstes, Vice President  
Environmental Enterprises, Inc.

**United States Environmental Protection Agency, Complainant**

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Date

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Michael D. Harris  
Division Director  
Enforcement and Compliance Assurance Division

**In the Matter of:**  
**Environmental Enterprises, Inc.**  
**Docket No.**

**Final Order**

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Ann L. Coyle  
Regional Judicial Officer  
United States Environmental Protection Agency  
Region 5