

FILED

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**U.S. EPA REGION 5
HEARING CLERK**

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket No. RCRA-05-2025-0009
)	
Tradebe Treatment & Recycling, LLC)	Proceeding to Commence and Conclude an
East Chicago, Indiana,)	Action to Assess a Civil Penalty
)	Under Section 3008(a) of the Resource
Respondent.)	Conservation and Recovery Act,
_____)	42 U.S.C. § 6928(a)

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 3008(a) of the Solid Waste Disposal Act, as amended, also known as the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a), and Sections 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules) as codified at 40 C.F.R. Part 22.

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

3. U.S. EPA provided notice of commencement of this action to the State of Indiana pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

4. Respondent is Tradebe Treatment & Recycling, LLC ("Tradebe" or "Respondent"), a corporation doing business in the State of Indiana.

5. 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).

6. 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.

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

Jurisdiction and Waiver of Right to Hearing

8. Jurisdiction for this action is conferred upon U.S. EPA by Sections 3006 and 3008 of RCRA, 42 U.S.C. §§ 6926 and 6928.

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

10. 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. In addition, 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.

Statutory and Regulatory Background

11. U.S. EPA has promulgated regulations, codified at 40 C.F.R. Parts 260 through 279, governing generators and transporters of hazardous waste and facilities that treat, store, and dispose of hazardous waste, pursuant to Sections 3002, 3003, and 3004 of RCRA, 42 U.S.C. §§ 6922, 6923, and 6924.

12. Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), directed U.S. EPA to promulgate regulations requiring each person owning or operating a hazardous waste treatment, storage,

or disposal facility to have a RCRA permit; this section of RCRA further provides in relevant part that the treatment, storage, or disposal of hazardous waste is prohibited except in accordance with a RCRA permit.

13. Pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, the Administrator of U.S. EPA may authorize a state to administer the RCRA hazardous waste program in lieu of the federal program when the Administrator finds that the state program meets certain conditions. Any violation of regulations promulgated pursuant to Subtitle C (Sections 3001-3023 of RCRA, 42 U.S.C. §§ 6921-6939e) or any state provision authorized pursuant to Section 3006 of RCRA, constitutes a violation of RCRA, subject to the assessment of civil penalties and issuance of compliance orders as provided in Section 3008 of RCRA, 42 U.S.C. § 6928.

14. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of U.S. EPA granted the State of Indiana final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program effective January 31, 1986. 51 Fed. Reg. 3953 (January 31, 1986).

15. Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), provides that, whenever on the basis of any information the Administrator of U.S. EPA determines that any person has violated or is in violation of any requirement of RCRA, the Administrator may commence a civil action in the United States district court in the district in which the violation occurred for appropriate relief, including a temporary or permanent injunction. Section 3008(g) of RCRA provides that any person who violates any requirement of RCRA shall be liable to the United States for a civil penalty in an amount not to exceed \$25,000 for each violation. 42 U.S.C. § 6928(g). Under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), U.S. EPA also may issue an order assessing a civil

penalty for any past or current violation, requiring compliance immediately or within a specified period of time, or both.

16. The Administrator of U.S. EPA may assess a civil penalty of up to \$121,275 per day for each violation of Subtitle C of RCRA that occurred after November 2, 2015, pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and 40 C.F.R. Part 19.

General Allegations

17. Respondent is a "person" as defined by 329 IAC §§ 3.1-4-1 and 3.1-4-1(b) and 40 C.F.R. § 260.10.

18. Respondent is an "owner" or "operator," as those terms are defined under 329 IAC §§ 3.1-4-1 and 3.1-4-1(b) and 40 C.F.R. § 260.10, of a facility located at 4343 Kennedy Avenue, East Chicago, Indiana, 46312 (Facility).

19. At all times relevant to this CAFO, Respondent's Facility consisted of land and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste.

20. Respondent's Facility is a "facility," as that term is defined under 329 IAC §§ 3.1-4-1 and 3.1-4-1(b) and 40 C.F.R. § 260.10.

21. At all times relevant to this CAFO, Respondent received hazardous wastes from off-site sources for storage and treatment at the Facility.

22. At all times relevant to this CAFO, Respondent utilized a solids distillation system (SDS) for treatment of hazardous waste.

23. At all times relevant to this CAFO, the SDS generated a residue, termed "char," which was collected in roll-off containers and stored at the Facility.

24. At all times relevant to this CAFO, Respondent held SDS char, a discarded material, for temporary periods in containers before the material was shipped from the Facility for treatment, storage, disposal, burning or incineration elsewhere.

25. Respondent characterized its SDS char as hazardous waste possessing the characteristics of ignitability and toxicity.

26. Respondent characterized its SDS char as hazardous waste listed at 329 IAC 3.1-6-1(b) and 40 C.F.R. §§ 261.31 and 261.33(f) under numerous hazardous waste numbers, including, among others, F001, F002, F003 and F004.

27. Respondent stored, transported, disposed of, or otherwise handled its SDS char in “containers” as that term is defined under 329 IAC §§ 3.1-4-1 and 3.1-4-1(b) and 40 C.F.R. § 260.10.

28. At all times relevant to this CAFO, Respondent’s SDS char was a “solid waste” as that term is defined under 329 IAC § 3.1-6-1 and 40 C.F.R. § 261.2.

29. At all times relevant to this CAFO, Respondent’s SDS char was a “hazardous waste” as that term is defined under 329 IAC § 3.1-6-1 and 40 C.F.R. § 261.3.

30. At all times relevant to this CAFO, Respondent’s holding of waste char in containers constituted hazardous waste “storage,” as that term is defined under 329 IAC §§ 3.1-4-1 and 3.1-4-1(b) and 40 C.F.R. § 260.10.

31. Respondent is a “generator,” as that term is defined under 329 IAC §§ 3.1-4-1 and 3.1-4-1(b) and 40 C.F.R. § 260.10, of the waste SDS char identified in paragraph 47, below.

32. On or about February 12, 2024, Respondent submitted a biennial hazardous waste report for the Facility.

33. According to the biennial report, at all times relevant to this CAFO, Respondent generated more than 1000 kg of hazardous waste per month at the Facility.

34. The Indiana Department of Environmental Management (IDEM) issued Respondent a Hazardous Waste Management Permit on April 28, 2017, that expired April 28, 2022 ("RCRA permit").

35. Respondent submitted a timely permit renewal application to IDEM on or about November 1, 2021.

36. At all times relevant to this CAFO, the Commissioner of IDEM did not issue a new permit.

37. Pursuant to 329 IAC § 3.1-13-16, the RCRA permit identified in paragraph 34, above, remained fully effective and enforceable.

38. The RCRA permit identifies the specific areas in Tradebe's Facility where hazardous waste may be stored in containers. These areas include but are not limited to portions of the Facility which are identified in Respondent's RCRA permit as "Area 1," "Area 7," "Area 7 North Apron," "Area 11," and "the South Apron."

39. On July 18 and 19, 2023, U.S. EPA conducted a Compliance Evaluation Inspection of the Facility (the inspection).

40. On February 2, 2024, U.S. EPA issued a Notice of Violation (NOV) to Respondent alleging certain violations of RCRA discovered during the inspection.

41. On March 15, 2024, Respondent submitted to U.S. EPA a written response to the Notice of Violation (NOV Response).

Count I: Storage of Hazardous Waste Without a Permit or Interim Status

42. Complainant incorporates paragraphs 1 through 41 of this CAFO as though set forth in this paragraph.

43. Pursuant to 3005(a) of RCRA, 42 U.S.C. § 6925(a) and the regulations at 40 C.F.R. Part 270, the treatment, storage, or disposal of hazardous waste by any person who has not applied for or received a permit is prohibited.

44. Pursuant to 329 IAC 3.1-7-1 [40 C.F.R. §§ 262.34(a) and (b)], however, and subject to certain exceptions, a generator of hazardous waste may accumulate hazardous waste on-site for 90 days or less without having a permit or interim status, provided that the generator complies with all applicable conditions set forth in 329 IAC 3.1-7-1 [40 C.F.R. §§ 262.34(a) and (b)] .

45. A generator who accumulates hazardous waste for more than 90 days is an operator of a storage facility and is subject to the permit requirements of 329 IAC §§ 3.1-13-1, 3.1-13-2(1), (2), (3), (4), 3.1-13-3 through 3.1-13-17, unless the generator has been granted an extension to the 90-day period. Storage for more than 90 days subjects the generator of hazardous waste to the requirement to either obtain a permit or achieve interim status.

46. At all times relevant to this CAFO, Respondent had not been granted an extension to accumulate hazardous waste for more than 90 days.

47. At the time of the inspection, Respondent was storing SDS char in a roll-off container in a location that was adjacent to, but not within, the permitted location in the Facility identified in Respondent's RCRA permit as "Area 11."

48. The location where the container holding the SDS char was being stored at the

time of the inspection is not a location that is included as a hazardous waste storage area in Respondent's RCRA permit.

49. The container holding the SDS char referenced in paragraphs 47 and 48, above, was marked with an accumulation start date of April 10, 2023, which was 99 days prior to the date of the inspection.

50. Accordingly, Respondent accumulated the SDS char hazardous waste identified in paragraphs 47 – 49, above, for more than 90 days. Respondent therefore failed to satisfy the condition(s) for maintaining its generator exemption under 329 IAC 3.1-7-1 from the requirement that it have an operating permit or interim status for the storage of this container.

51. As a result of Respondent's failure to meet all of the applicable conditions for the generator exemption provided by 329 IAC 3.1-7-1, Respondent became an operator of a hazardous waste treatment, storage, and disposal facility (TSDF).

52. Respondent's storage of hazardous waste char without a permit or interim status violated Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), and the requirements of 329 IAC §§ 3.1-13-1, 3.1-13-2(1), (2), (3), (4), 3.1-13-3 through 3.1-13-17 [40 C.F.R. §§ 270.1(c) and 270.10(a) and (d), and 270.13], and subjects Respondent to the assessment of civil penalties under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

Count 2: Storage of Liquid Hazardous Waste

53. Complainant incorporates paragraphs 1 through 41 of this CAFO as though set forth in this paragraph.

54. 329 IAC 3.1-9-1 [40 C.F.R. § 264.175(a)] requires that containment meeting the requirements of 40 C.F.R. § 264.175(b) must be provided for containers of hazardous waste

with free liquids.

55. Condition III.F. of Respondent's RCRA permit requires it to construct, operate and maintain the containment system for containers of hazardous waste as specified in Attachment D to the permit.

56. Table D-1, Attachment D of Respondent's RCRA permit, "Container Storage Area Maximum Design Capacity," notes that the following container storage areas identified in Respondent's RCRA permit, among others, are restricted to storage of solid hazardous wastes only: Area 7 (except sub area A-4); Area 7 North Apron; and South Apron.

57. The areas identified in paragraph 56, above, are not provided with containment as described at 40 C.F.R. § 264.175(b).

58. At the time of the inspection, four (4) 55-gallon containers of corrosive hazardous waste liquids were located in Area 7, outside of sub-area A-4.

59. At the time of the inspection, one (1) 55-gallon container holding inner containers of flammable liquids was located at Area 7 North Apron.

60. At the time of the inspection, one (1) 55-gallon container of flammable liquid waste paint containing acetone was located at Area 7 North Apron.

61. At the time of the inspection, eight (8) 55-gallon containers of flammable liquids were located at Area 7 North Apron.

62. At the time of the inspection, one (1) container of flammable liquid was located at the South Apron.

63. At the time of the inspection, one (1) container holding inner containers of corrosive liquids was located at the South Apron.

64. At the time of the inspection, one (1) box of flammable liquids was located at the South Apron.

65. Respondent's storage of liquid hazardous wastes at Area 7; Area 7 North Apron; and the South Apron, without containment, violated 329 IAC 3.1-9-1 [40 C.F.R. § 264.175(a)] and Condition III.F. of Respondent's RCRA permit, and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), and subjects Respondent to the assessment of civil penalties under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

Civil Penalty

66. Respondent agrees to pay a civil penalty in the amount of **\$18,441** ("Assessed Penalty") within thirty (30) days after the date the Final Order ratifying this Agreement is filed with the Regional Hearing Clerk ("Filing Date").

67. 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>.

68. When making a payment, Respondent shall:

- a. Identify every payment with Respondent's name and the docket number of this Agreement, **RCRA-05-2025-0009**,
- 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

Todd Brown
Land Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency, Region 5
brown.todd@epa.gov
and
R5LECAB@epa.gov

James Cha
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
cha.james@epa.gov

U.S. Environmental Protection
Agency Cincinnati Finance Center
Via electronic mail to:
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.

69. 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.

- 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 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.

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.

70. 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.

- 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 EPA or engaging in programs 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.

71. 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.

72. 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

73. The parties consent to service of this CAFO by e-mail at the following valid e-mail

addresses: cha.james@epa.gov (for Complainant), and jeremy.steele@tradebe.com (for Respondent). Respondent understands that the CAFO will become publicly available upon filing.

74. Full payment of the penalty and compliance with this CAFO resolves only Respondent's liability under Sections 3005(a) and 3008(a) of RCRA, 42 U.S.C. §§ 6925(a) and 6928(a), for federal civil penalties for the violations alleged in the CAFO. The parties acknowledge and agree that this CAFO only addresses the specific violations of RCRA alleged in this CAFO and described above. The parties further acknowledge and agree that nothing in this CAFO shall be construed to resolve or otherwise affect any other alleged violation of law, including but not limited to any other alleged violation of RCRA identified during U.S. EPA's inspection of the Tradebe Treatment & Recycling, LLC, facility on July 18 – 19, 2023, or identified in the "Notice of Violation and Opportunity to Confer" issued by U.S. EPA to Respondent on or about February 2, 2024.

75. 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.

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

77. Respondent certifies that it is complying fully with the terms and conditions of its RCRA permit and with Section 3005 of RCRA, 42 U.S.C. § 6925(a), and with the requirements of 329 IAC 3.1-9-1 [40 C.F.R. § 264.175(a)], and 329 IAC §§ 3.1-13-1, 3.1-13-2(1), (2), (3), (4), 3.1-13-3 through 3.1-13-17 [40 C.F.R. §§ 270.1(c) and 270.10(a) and (d), and 270.13].

78. This CAFO is a "final order" for purposes of 40 C.F.R. § 22.31, U.S. EPA's RCRA Civil

Penalty Policy, and U.S. EPA's Hazardous Waste Civil Enforcement Response Policy (December 2003).

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

80. 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.


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

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

Tradebe Treatment & Recycling, LLC, Respondent

11/18/2024

Date

DocuSigned by:

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Oriol Mateu
Chief Executive Officer
Tradebe Treatment & Recycling, LLC

United States Environmental Protection Agency, Complainant

Date

Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division

In the Matter of:
Tradebe Treatment & Recycling, LLC
Docket No. RCRA-05-2025-0009

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