



UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION IX

In the matter of:	)	U.S. EPA Docket No.
	)	
	)	RCRA-09-2022-0073
	)	
Clean Harbors Wilmington, LLC.,	)	PROCEEDING TO COMMENCE AND
	)	CONCLUDE AN ACTION TO
	)	ASSESS A CIVIL PENALTY UNDER
	)	RCRA SECTION 3008 PURSUANT TO
	)	40 C.F.R. SECTIONS 22.13 AND 22.18
EPA Identification No. CAD044429835	)	
	)	
	)	
Respondent.	)	
	)	

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**CONSENT AGREEMENT**

**A. PRELIMINARY STATEMENT**

1. This is a civil administrative enforcement action instituted pursuant to Section 3008 of the Resource Conservation and Recovery Act (“RCRA”), as amended, 42 U.S.C. § 6928, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, Title 40 of the Code of Federal Regulations (“C.F.R.”) Part 22, (“Consolidated Rules”).
2. Complainant is the United States Environmental Protection Agency, Region IX (“EPA”).
3. Respondent is Clean Harbors Wilmington LLC, the operator of the facility located at 1737 East Denni St., Wilmington, CA 90744-3904 (the “Facility” or the “Wilmington Facility”). The Respondent is referred to herein as “Respondent” or “Clean Harbors.”
4. This Consent Agreement and Final Order (“CA/FO”), pursuant to 40 C.F.R. §§ 22.13(b) and 22.18, simultaneously commences and concludes this proceeding, wherein EPA alleges that Respondent violated state regulations adopted pursuant to the approved California hazardous waste management program.

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 respective interest and in the public interest.

**B. STATUTORY AND REGULATORY FRAMEWORK**

6. 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 law under an authorized state hazardous waste program is a violation of a requirement of Subtitle C of RCRA.
7. The State of California (“State”) 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]).
8. 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 (“H&SC”), and the regulations promulgated thereunder at Title 22, Division 4.5 of the California Code of Regulations (“C.C.R.”), 22 C.C.R. §§ 66001 *et seq.* The State of California has been authorized for all the relevant portions of the hazardous waste management regulations referenced in this CA/FO.<sup>1</sup>

**C. EPA’S GENERAL ALLEGATIONS**

9. Respondent Clean Harbors Wilmington LLC operates the Wilmington Facility. The Facility’s EPA RCRA ID number is CAD044429835. Clean Harbors operates the Wilmington Facility as a commercial hazardous waste treatment, storage, and disposal facility (“TSDF”) pursuant to a RCRA hazardous waste permit issued by the California Department of Toxic Substances Control (DTSC). The Facility accepts solid, semi-solid, liquid RCRA and non-RCRA hazardous waste for consolidation and volume reduction. The Facility is also a large-quantity generator of hazardous waste.

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<sup>1</sup> All 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.

10. On or about February 25, 2020 through February 27, 2020, EPA conducted a compliance evaluation inspection (“CEI”) at the Wilmington Facility. The purpose of the CEI was to determine the Facility’s compliance with its State-issued hazardous waste permit and applicable federal environmental statutes and regulations, in particular RCRA, as amended, and the regulations in 40 C.F.R. Parts 260 through 279, and the authorized statutory and regulatory requirements adopted by the State of California as part of its authorized hazardous waste program in the California Health and Safety Code, Division 20 and the California Code of Regulations, Title 22, Division 4.5.
11. At the time of the CEI, Clean Harbors operated the Wilmington Facility pursuant to a RCRA permit issued by the California Department of Toxic Substances Control (“DTSC”) effective September 15, 2011 (“the 2011 RCRA Permit”).
12. Clean Harbors is engaged in the “treatment,” “storage,” 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 66261.3]
13. The hazardous wastes Clean Harbors treats, stores, or disposes at the Wilmington Facility include but are not limited to, the following waste codes: D001, D018, D019, D022, D035, D039, D040, F001, F002, F003, F005, U002, U003, U019, U043 and U044.
14. The Respondent is a “person” as defined in H&SC Section 25118 (*see also* Section 1004(15) of RCRA, 42 U.S.C. § 6903(15)), and 22 C.C.R. §§ 66260.10 and 66270.2 (*see also* 40 C.F.R. §§ 260.10 and 270.2).
15. Respondent Clean Harbors Wilmington LLC is the “operator” of a facility as defined in 22 C.C.R. § 66260.10 (*see also* 40 C.F.R. § 260.10).
16. Clean Harbors is a “generator” of hazardous waste as defined in 22 C.C.R. § 66260.10 [*see also* 40 C.F.R. § 260.10].
17. The Wilmington Facility is a “hazardous waste facility” as defined in H&SC Section 25117.1 and 22 C.C.R. § 66260.10 (*see also* the definitions of “facility” and “facility or activity” at 40 C.F.R. §§ 260.10 and 270.2).
18. Based upon the findings EPA made during the CEI, and additional information obtained subsequent to the CEI, EPA determined that Respondent violated the Wilmington Facility’s hazardous waste permit, the California Health & Safety Code § 25100 *et seq.*, and the regulations adopted pursuant thereto, as approved and authorized by the United States.

19. Section 3006 of RCRA, 42 U.S.C. § 6926, provides, *inter alia*, that authorized state hazardous waste programs are carried out under Subtitle C of RCRA. A violation of California's authorized hazardous waste program, found at H&SC §§ 25100 *et seq.*, constitutes a violation of Subtitle C of RCRA. 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.
20. 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.* The Administrator has delegated enforcement authority under Section 3008 of RCRA, 42 U.S.C. § 6928, to the EPA Regional Administrators, with delegation 8-9-A, last revised February 4, 2016. The Regional Administrator, EPA Region IX, in turn, redelegated that authority to the EPA signatory below.

D. ALLEGED VIOLATIONS

**COUNT ONE**

Failure to Properly Implement the 2011 Permit's  
Leak Detection and Repair (LDAR) Program

21. Paragraphs 1 through 20 above, are incorporated herein by this reference as if they were set forth here in their entirety.
22. The Wilmington Facility's 2011 RCRA Permit requires compliance with 22 C.C.R. § 66264.1050(d) insofar as it requires that each piece of equipment subject to regulation under Article 28 (Air Emission Standards for Equipment Leaks) be marked in such a manner that it can be distinguished readily from other pieces of equipment.<sup>2</sup>
23. During the February 2020 CEI, EPA inspectors observed that equipment tags were missing, that the equipment list contained in the Part B application and tag numbers on the equipment did not match, that tags were located on the wrong pieces of equipment, that equipment was tagged that did not appear to be a part of the Facility's Leak Detection and Repair (LDAR) program, and that monitoring logs were not utilizing the existing tagging system to identify and track equipment leaks.

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<sup>2</sup> California is authorized to administer the Federal RCRA program under the State regulations at 22 C.C.R. § 66264.1050(d) and for the relevant definitions at 22 C.C.R. § 66260.10 (definitions applicable to the federal requirements of 40 C.F.R. Part 264 Subpart BB are found in 40 C.F.R. Part 264 Subpart AA at § 264.1031).



24. Each of the following constitutes a violation of the Wilmington Facility's 2011 RCRA Permit and 22 C.C.R. § 66264.1050(d) [40 C.F.R. § 264.1050(d)] (*see also* 22 C.C.R. § 66270.30(a) [40 C.F.R. § 270.30(a)]): the failure to replace missing markings or tags on equipment that is in contact with organic hazardous waste at a concentration equal to or greater than ten percent by weight; the failure to match tags and equipment with the lists of tag numbers and equipment included in the Facility's LDAR program; and the failure to ensure that monitoring logs utilize the existing tagging system to identify and track leaks from such equipment.
25. Therefore, EPA alleges that Respondent has violated the Facility's 2011 RCRA Permit and 22 C.C.R. § 66264.1050(d) [40 C.F.R. § 264.1050(d)] (*see also* 22 C.C.R. § 66270.30(a) [40 C.F.R. § 270.30(a)]).

## **COUNT TWO**

### **Failure to Properly Perform the 2011 Permit's Method 21 LDAR Monitoring**

26. Paragraphs 1 through 25, above, are incorporated herein by this reference as if they were set forth here in their entirety.
27. The Wilmington Facility's 2011 RCRA Permit included requirements for performing LDAR monitoring. The 2011 RCRA Permit requires compliance with 22 C.C.R. § 66264.1063(b)(1), which directs facilities subject to the air emissions standards for equipment leaks to perform leak detection monitoring in compliance with Reference Method 21 in 40 C.F.R., Part 60.
28. Method 21 specifies that calibration of the monitoring device used in LDAR monitoring must coincide with applicable leak thresholds. Additionally, EPA Method 21, Section 6.1, requires the LDAR monitoring be conducted with a device that responds effectively to the constituents being monitored.
29. The 2011 RCRA Permit also requires compliance with 22 C.C.R. § 66264.1063(b)(4), which mandates that facilities utilize calibration gases that are zero air (less than 10 parts per million [ppm] of hydrocarbon in air) and a mixture of methane or n-hexane and air at a concentration of approximately, but less than, 10,000 ppm methane or n-hexane.
30. Clean Harbors performs monthly monitoring of the carbon canisters/process vents and the pumps and retains a contractor to perform monthly monitoring of equipment covered under the Facility's LDAR program.
31. During a March 2020 conference call with Respondent and the facility's

monitoring contractor, Clean Harbors' contractor disclosed its calibration gases used to perform monthly monitoring of equipment covered under the Facility's LDAR program to be zero air and 100 ppm of n-hexane instead of the mandated calibration gases at approximately or less than 10,000 ppm methane or n-hexane.

32. During the CEI, EPA inspectors observed that, for its monthly monitoring of the carbon canisters/process vents and the pumps, the Wilmington Facility was using a calibration gas comprised of hydrogen sulfide (25 ppm), carbon monoxide (100 ppm), pentane (3,500 ppm, 25% LEL), oxygen (19%), and nitrogen (as balance) which does not meet the requirements in Method 21 for allowable calibration gases. In addition, Clean Harbors' contractor was using isobutylene calibration gas on occasion instead of n-hexane to calibrate the LDAR monitoring device. Further neither Clean Harbors or its contractor were performing the quarterly calibration precision test as required by EPA Method 21, Section 8.1.2 of EPA Method 21.
33. Clean Harbors and its contractor were each conducting Method 21 monitoring with a device that does not respond effectively to the constituents being monitored as is required by the Permit.
34. Therefore, EPA alleges that, by failing to perform Method 21 LDAR monitoring as required by the 2011 RCRA Permit, Respondent violated the 2011 RCRA Permit and the regulatory requirements at 22 C.C.R. §§ 66264.1063(b)(1) and (4), (40 C.F.R. §§ 264.1063(b)(1); 264.1063(b)(4)) (see also § 66270.30(a) [40 C.F.R. § 270.30(a)]).

### **COUNT THREE**

#### **Failure to Accurately Classify Equipment as Difficult to Monitor**

35. Paragraphs 1 through 34, above, are incorporated herein by this reference as if they were set forth here in their entirety.
36. According to 22 C.C.R. § 66264.1057(h), any valve that is designated as a difficult-to-monitor valve is exempt from the requirements of 22 C.C.R. § 66264.1057(a) so long as the owner or operator follows a written plan that requires monitoring of the valve at least once per calendar year. In addition, 22 C.C.R. § 66264.1064(h)(2) requires that a list of identification numbers for valves that are designated as difficult to monitor, an explanation for each valve stating why the valve is difficult to monitor, and the planned schedule for monitoring each valve all be recorded in a log that is kept in the facility's operating record.
37. During the CEI, the EPA inspectors observed that some of the equipment at the Wilmington Facility that were subject to monitoring under 22 C.C.R.

§ 66264.1057(a) was not being monitored because, according to the Facility representatives, the components were deemed difficult to monitor.

38. At the time of the CEI, none of the equipment subject to monitoring under 22 C.C.R. §66264.1057(a) was classified as difficult to monitor equipment in the 2011 RCRA Permit. In fact, the 2011 RCRA Permit identifies no difficult to monitor equipment at all.
39. Therefore, EPA alleges that, by failing to properly classify difficult to monitor equipment in the 2011 RCRA Permit and not monitoring such equipment in accordance with the 2011 RCRA Permit, Respondent violated the 2011 RCRA Permit and the regulatory requirements at 22 C.C.R. §§ 66264.1057 and 66264.1064(h)(2), (40 C.F.R. §§ 264.1057 and 264.1064(h)(2)), (see also § 66270.30(a) [40 C.F.R. § 270.30(a)]).

#### **COUNT FOUR**

##### Failure to Implement the Carbon Change-Out Program as Described in the 2011 RCRA Permit

40. Paragraphs 1 through 39, above, are incorporated herein by this reference as if they were set forth here in their entirety.
41. At the time of the CEI, the carbon adsorption system used by the Wilmington Facility to control hazardous waste air emissions on its tank system consists of two carbon canister units, in series, mounted near the top of the tank. These units are identified as a primary and a secondary carbon unit.
42. Facilities using a carbon adsorption system “such as a carbon canister that does not regenerate the carbon bed directly on-site in the control device” to comply with the air emissions requirements of 22 C.C.R. § 66264.1087(c)(1), are subject to 22 C.C.R. § 66264.1087(c)(3). This provision requires the facility to replace the device’s carbon with fresh carbon either on a regular, pre-determined interval in accordance with the requirements of 22 C.C.R. § 66264.1033(h)(2) or upon detection of a certain level of break-through contamination based on a regular monitoring schedule in accordance with 22 C.C.R. § 66264.1033(h)(1).
43. The 2011 RCRA Permit requires that the Respondent monitor the carbon adsorption system every 14 days to detect breakthrough in accordance with 22 C.C.R. § 66264.1033(h)(1). Detection of a certain level of break-through contamination would then trigger the change-out of the carbon canisters (*i.e.*, the primary canister is removed, the secondary canister becomes the primary canister and a new canister is installed as the secondary canister).

44. At the time of the CEI, documentation demonstrated that the carbon adsorption system was being monitored only on a monthly basis.
45. Therefore, EPA alleges that, by failing to properly monitor its carbon adsorption system on 14-day intervals in accordance with the 2011 RCRA Permit, Respondent violated the 2011 RCRA Permit and the regulatory requirement at 22 C.C.R. § 66264.1087, (40 C.F.R. § 264.1087) (see also § 66270.30(a) [40 C.F.R. § 270.30(a)]).

E. CIVIL PENALTY

46. The Complainant proposes that Respondent be assessed, and Respondent agrees to pay NINETY-NINE THOUSAND AND FIVE HUNDRED DOLLARS (\$99,500.00) in full settlement of the federal civil penalty claims alleged in this CA/FO.
47. The civil penalty is based upon EPA's consideration of a number of factors, including the penalty criteria set forth in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), including the following: the seriousness of the violation and any good faith efforts to comply with applicable requirements. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's "June 2003 RCRA Civil Penalty Policy," and adjusted for inflation in accordance with the Civil Monetary Inflation Adjustment Rule, 40 C.F.R. Part 19.

F. ADMISSIONS AND WAIVERS OF RIGHTS

48. In accordance with 40 C.F.R. § 22.18(b)(2) and for the purpose of this proceeding, the Respondent: (i) admits that EPA has jurisdiction over the subject matter of this CA/FO and over Respondent; (ii) neither admits nor denies the specific factual allegations contained in this CA/FO; (iii) consents to any and all conditions specified in this CA/FO and to the assessment of the civil administrative penalty under Section E of this CA/FO; (iv) waives any right to contest the allegations contained in Sections C or D of the CA/FO; and (v) waives the right to appeal the proposed final order attached to this Consent Agreement and made part of this CA/FO.

G. PARTIES BOUND

49. This CA/FO shall apply to and be binding upon Respondent and its agents, successors and assigns, until the civil penalty required under Section E has been paid in accordance with Section H. At that time, this CA/FO shall terminate and constitute full settlement of civil penalty liability for the violations alleged herein.

50. No change in ownership relating to the Facility will in any way alter Respondent's obligations and responsibilities under this CA/FO.
51. The undersigned representative of the Respondent hereby certifies that he or she is fully authorized to enter into this CA/FO, to execute it and to legally bind the Respondent to it.

H. PAYMENT OF CIVIL PENALTY

52. Respondent shall submit payment of NINETY-NINE THOUSAND AND FIVE HUNDRED DOLLARS within thirty (30) calendar days of the Effective Date of this CA/FO, in accordance with one of the options set forth below. The Effective Date of this CA/FO is the date the Final Order, signed by the Regional Judicial Officer, is filed with the Regional Hearing Clerk. All payments shall indicate the name of the Facility, the Respondent's name and address, and the EPA docket number of this action.

Regular Mail:

Payment shall be made by certified or cashier's check payable to "Treasurer, United States of America," and sent as follows:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
PO Box 979077  
St. Louis, MO 63197-9000

Overnight Mail:

Payment shall be made by certified or cashier's check payable to "Treasurer, United States of America," and sent as follows:

U.S. Environmental Protection Agency  
Government Lockbox 979077  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
St. Louis, MO 63101

Wire Transfers:

Wire transfers must be sent directly to the Federal Reserve Bank in New York City with the following information:

Federal Reserve Bank of New York



ABA = 021030004  
Account = 680 1 0727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, NY 10045  
Field Tag 4200 of the Fedwire message should read “D 680 1 0727 Environmental Protection Agency”

ACH (also known as REX or remittance express):

ACH for receiving US currency  
PNC Bank  
808 171b Street, NW  
Washington, DC 20074  
ABA: 051036706  
Transaction Code 22 – checking  
Environmental Protection Agency  
Account 310006

On Line Payment:

Payers can use their credit or debit cards (Visa, MasterCard, American Express & Discover) as well as checking account information to make payments.

This payment option can be accessed from the information below:

[www.pay.gov](http://www.pay.gov)

Enter “sfo1.1” in the search field

Open form and complete required fields

**If clarification regarding a particular method of payment remittance is needed, contact the EPA Cincinnati Finance Center at 513-487-2091.**

53. At the time payment is made, Respondent shall send a PDF copy of the notification that the payment has been made by one of the methods listed above including proof of the date payment was made, to the following email addresses:

Regional Hearing Clerk  
U.S. Environmental Protection Agency - Region 9  
[R9HearingClerk@epa.gov](mailto:R9HearingClerk@epa.gov)

and to:

John Schofield  
Enforcement and Compliance Assurance Division



54. In accordance with the Debt Collection Act of 1982 and U.S. Treasury directive (TFRM 6-8000), each payment must be received by the due date set forth in this CA/FO to avoid additional charges. If payment is not received by the due date, interest will accrue from the Effective Date of this CA/FO at the current rate published by the United States Treasury as described at 40 C.F.R. § 13.11. In addition, a 6% per annum penalty assessed monthly will further apply on any principal amount not paid within ninety (90) calendar days of its due date. Respondent further will be liable for stipulated penalties as set forth below for any payment not received by its due date.
55. The penalties specified in this CA/FO shall represent civil penalties assessed by EPA and shall not be deducted by Respondent or any other person or entity for federal, state, or local taxation purposes.

I. DELAY IN PERFORMANCE/STIPULATED PENALTIES

56. In the event Respondent fails to submit payment of the civil penalty to EPA by the time required in this CA/FO, Respondent shall pay stipulated penalties up to: ONE THOUSAND DOLLARS (\$1,000) per day for each day of delay.
57. All stipulated penalties owed to EPA under this Section shall be due within thirty (30) days of receipt by the Respondent of a notification of noncompliance. Such notification shall describe the noncompliance and shall indicate the amount of the penalties due. Interest at the current rate published by the United States Treasury, as described at 40 C.F.R. §13.11, shall begin to accrue on the unpaid balance at the end of the thirty-day period.
58. All stipulated penalties shall be made payable by certified or cashier's check to "Treasurer of the United States" and shall be remitted as described in Paragraph 52, with notice as described in Paragraph 53.
59. The payment of stipulated penalties shall not alter in any way Respondent's obligation to submit the civil penalty required in accordance with Sections E and H, hereunder.
60. 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.

J. CERTIFICATION OF COMPLIANCE

61. In executing this CA/FO, Respondent certifies under penalty of law to EPA that the Wilmington Facility has taken all steps necessary to return to full compliance with Section 3008 of RCRA, 42 U.S.C. § 6928, and its implementing regulations, as well as the applicable permit requirements pertaining to the alleged violations set forth in Section D of this CA/FO, including but not limited to submittal of applications to modify permit language where applicable.
62. This certification of compliance is based upon true, accurate, and complete information, which the signatory can verify personally or regarding which the signatory has inquired of the person or persons directly responsible for gathering the information.

K. RESERVATION OF RIGHTS

63. EPA hereby reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, including the right to require that Respondent perform tasks in addition to those required by this CA/FO. EPA further reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, which may pertain to Respondent's failure to comply with any of the requirements of this CA/FO, including without limitation, the assessment of penalties under Section 3008 of RCRA, 42 U.S.C. § 6928. This CA/FO shall not be construed as a covenant not to sue, release, waiver or limitation of any rights, remedies, powers or authorities, civil or criminal, which EPA has under RCRA, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), or any other statutory, regulatory or common law enforcement authority of the United States. Nothing herein shall be construed to limit the power of the EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.
64. Compliance by Respondent with the terms of this CA/FO shall not relieve Respondent of the obligation to comply with RCRA or any other applicable local, State or federal laws and regulations.
65. The entry of this CA/FO and Respondent's consent to comply shall not limit or otherwise preclude EPA from taking additional enforcement actions should EPA determine that such actions are warranted except as they relate to Respondent's liability for federal civil penalties for the alleged violations set forth in Section D of this CA/FO.

66. This CA/FO is not intended to be nor shall it be construed as a permit. This CA/FO does not relieve Respondent of any obligation to obtain and comply with any required local, State or federal permits.

L. OTHER CLAIMS

67. Nothing in this CA/FO shall constitute or be construed as a release from any other claim, cause of action or demand in law or equity by or against any person, firm, partnership, entity or corporation for any liability it may have 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

68. This CA/FO may be amended or modified only by written agreement executed by EPA and Respondent.

69. The headings in this CA/FO are for convenience of reference only and shall not affect interpretation of this CA/FO.

70. Each party to this action shall bear its own costs and attorneys' fees.


71. EPA and Respondent consent to entry of this CA/FO without further notice.

N. EFFECTIVE DATE

72. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CA/FO shall be effective on 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 CLEAN HARBORS WILMINGTON, LLC:

  
\_\_\_\_\_  
Eric Gerstenberg  
President

9/16/23  
\_\_\_\_\_  
Date

FOR COMPLAINANT U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION 9:

**AMY MILLER-** Digitally signed by AMY  
**BOWEN** MILLER-BOWEN  
Date: 2022.09.21  
09:20:09 -07'00'

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Amy C. Miller-Bowen, Director  
Enforcement and Compliance Assurance Division

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Date

**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-09-2022-0073) be entered and that Respondent shall pay a civil penalty of NINETY-NINE THOUSAND AND FIVE HUNDRED DOLLARS (\$99,500) in accordance with the terms of this CA/FO.

A notice of payment and a copy of the check or other form of payment shall be sent to the EPA Region IX addresses specified in Section H of this Consent Agreement and Final Order at the time payment is made.

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

**STEVEN  
JAWGIEL**

Digitally signed by STEVEN  
JAWGIEL  
Date: 2022.09.22 14:47:27 -07'00'

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Steven L. Jawgiel  
Regional Judicial Office  
U.S. EPA - Region IX

Date

**CERTIFICATE OF SERVICE**

I certify that the original of the fully executed CONSENT AGREEMENT AND FINAL ORDER in the matter of Clean Harbors Wilmington, LLC, Docket No. RCRA-09-2022-0073 was filed with 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 sent to the following parties via electronic mail:

**Respondents:**

Eric Gerstenberg, President  
Clean Harbors Wilmington, LLC  
P.O. Box 9149  
Norwell, MA 02061-9149  
[Gerstenberge@cleanharbors.com](mailto:Gerstenberge@cleanharbors.com)  
(781) 792-5000

Timmery Fitzpatrick, Esq.  
Assistant General Counsel  
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P.O. Box 9149  
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[Fitzpatrick.timmery@cleanharbors.com](mailto:Fitzpatrick.timmery@cleanharbors.com)  
(781) 792-5172

**Complainant:**

Mimi Newton  
Assistant Regional Counsel  
U.S. EPA, Region IX  
75 Hawthorne Street  
San Francisco, CA 94105  
[Newton.Mimi@epa.gov](mailto:Newton.Mimi@epa.gov)

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Ponly J. Tu    Date  
Regional Hearing Clerk  
U.S. EPA - Region IX