

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, PA 19103**

**IN RE**

**Chrin Brothers, Incorporated  
635 Industrial Drive  
Easton, Pennsylvania, 18042**

**Respondent.**

:  
:  
:  
:  
:  
:  
:  
:  
:  
:  
:  
:

**Docket No. CAA-3-2010-0375**

**CONSENT AGREEMENT**

**I. Preliminary Statement**

1. This Consent Agreement is entered into by the Complainant, the Director of the Air Protection Division, U.S. Environmental Protection Agency ("EPA"), Region III, and Respondent Chrin Brothers, Inc. ("Chrin" or "Respondent") and filed with the accompanying Final Order pursuant to Section 112 of the Clean Air Act ("CAA" or the "Act"), as amended, 42 U.S.C. § 7412, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 C.F.R. Part 22 (the "Consolidated Rules of Practice"). The Consolidated Rules of Practice, at 40 C.F.R. § 22.13, provide, in pertinent part, that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding simultaneously may be commenced and concluded by the issuance of a consent agreement and final order pursuant to 40 C.F.R. § 22.18(b)(2) and (3).
2. This Consent Agreement and the accompanying Final Order address Respondent's alleged violations of requirements established under the CAA, as alleged below.

**II. General Provisions**

3. Section 113(a)(3) and (d) of the Act, 42 U.S.C. § 7413(a)(3) and (d), authorizes the Administrator of EPA to issue an administrative order assessing a civil administrative penalty whenever, on the basis of any information available to the Administrator, the Administrator finds that any person has violated, or is in violation of, any requirement, rule, plan, order, waiver, or permit promulgated, issued, or approved under Subchapters I, IV, V and VI [also referred to as Titles I, IV, V and VI] of the Act. The authority to issue the accompanying

RECEIVED  
EPA REGION III  
PHILADELPHIA, PA  
MAY 11 2010

Final Order has been duly delegated to the Regional Judicial Officer, EPA Region III.

4. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order and agrees not to contest EPA's jurisdiction with respect to the issuance, execution and enforcement of this Consent Agreement and the accompanying Final Order.
5. Respondent consents to the issuance of this Consent Agreement and the accompanying Final Order and agrees to comply with the terms and conditions set forth therein.
6. Respondent neither admits nor denies the specific findings of fact and conclusions of law set forth in this Consent Agreement and the accompanying Final Order except as otherwise stated in Paragraph 4.
7. Respondent agrees that this Consent Agreement and the accompanying Final Order shall apply to, and be binding upon, Respondent, its officers, directors, servants, employees, agents, successors and assigns.
8. For the purposes of this proceeding, Respondent hereby expressly waives its right to a hearing with respect to any issue of law or fact set forth in this Consent Agreement and the accompanying Final Order, including the finality and/or validity thereof. Respondent hereby expressly waives its right to contest the factual allegations and legal conclusions set forth in Section III, "Findings of Fact and Conclusions of Law," of this Consent Agreement and any right to appeal the accompanying Final Order.
9. Section 111 of the CAA, 42 U.S.C. § 7411, codified in Title I of the CAA, requires the EPA Administrator to promulgate Standards of Performance for New Stationary Sources. Pursuant to Section 111, EPA has promulgated the "Landfill NSPS" at 40 C.F.R. Part 60, Subpart WWW. The Landfill NSPS applies to certain municipal solid waste landfills that commenced construction, reconstruction, or modification after May 30, 1991.

### **III. Findings of Fact and Conclusions of Law**

10. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3), EPA alleges the following findings of fact and conclusions of law:
11. Respondent owns and operates the Chrin Brothers Sanitary Landfill (the "Landfill") located at 635 Industrial Drive in Easton, Pennsylvania 18042.
12. Respondent is a "person" as that term is defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e), and within the meaning of Section 113(d) of the CAA, 42 U.S.C. § 7413(d).
13. The Landfill is a "stationary source", as defined by Sections 111(a)(3) and 112(a)(3) of the

CAA, 42 U.S.C. §§ 7411(a)(3) and 7412(a)(3).

14. Pursuant to 40 C.F.R. § 60.751, "municipal solid waste landfill" or "MSW landfill" means an entire disposal facility in a contiguous geographic space where household waste is placed in or on land.
15. Pursuant to 40 C.F.R. § 60.750(a), the provisions of the Landfill NSPS apply to a municipal solid waste landfill that commenced construction, reconstruction or modification on or after May 30, 1991.
16. The Landfill is an "MSW landfill" that commenced construction, reconstruction, or modification after May 30, 1991 and is therefore subject to the terms of the Landfill NSPS.
17. The Landfill has a design capacity equal to or greater than 2.5 megagrams and 2.5 cubic meters of municipal solid waste and generates greater than 50 megagrams of non-methane organic compounds ("NMOCs") per year.
18. Pursuant to 40 C.F.R. § 60.752(b)(2)(ii), each owner or operator of a MSW landfill with a calculated NMOC emission rate equal to or greater than 50 Mg/yr shall install a landfill gas collection and control system.
19. In January 2004, Respondent, pursuant to the Landfill NSPS and the Permit submitted a landfill Gas Collection and Control System (GCCS) design report for the Landfill to the PADEP for approval. PADEP approved the GCCS on May 4, 2004.
20. Pursuant to 40 C.F.R. § 60.753(b), each owner or operator of a MSW landfill with a gas collection and control system shall operate the GCCS with negative pressure at each wellhead (40 C.F.R. § 60.753(b)) and with a landfill gas temperature less than 55°C (131°F) and with either a nitrogen level less than 20 percent or an oxygen level less than 5 percent (40 C.F.R. § 60.753(c)).
21. Pursuant to 40 C.F.R. § 60.755(a)(3) and (5), each owner or operator of a MSW landfill with a gas collection and control system shall correct any exceedance related to operating the GCCS with negative pressure at each wellhead (40 C.F.R. § 60.753(b)) and with either a nitrogen level less than 20 percent or an oxygen level less than 5 percent (40 C.F.R. § 60.753(c)).
22. During an inspection conducted on June 2 through 4, 2009, an authorized EPA inspector evaluated the Landfill's compliance with the Landfill NSPS.
23. Based on the June 2009 inspection and subsequent information provided by Respondent, EPA determined that at least 71 wells included in the GCCS have been identified as exceeding either a nitrogen level of 20 percent or an oxygen level of five percent during the period of August 2009 and continuing through the effective date of this agreement, and were

not timely corrected.

24. EPA has determined that Respondent failed to comply with 40 C.F.R. § 60.753(b), § 60.753(c) and 40 C.F.R § 60.755(a)(3) and (5) during the time period specified in paragraph 23, by failing to operate the 71 wells identified in paragraph 23, with negative pressure and with either a nitrogen level of 20 percent or an oxygen level of five percent and by failing to correct such instances when the aforementioned parameters were not met.

#### **IV. Settlement Recitation, Settlement Conditions and Civil Penalty**

25. Complainant and Respondent enter into this Consent Agreement and the accompanying Final Order in order to settle fully and resolve all violations set forth in Section III of this Consent Agreement.
26. In full and final settlement of the allegations in Section III, Findings of Fact and Conclusions of Law of this Consent Agreement, and in consideration of each provision of this Consent Agreement and the accompanying Final Order, Respondent consents to the assessment and payment of a civil penalty in the amount of Thirty Thousand Dollars (\$30,000.00) within the time and manner specified herein.
27. The settlement amount of Thirty Thousand Dollars (\$30,000.00) is based upon Complainant's consideration and application of the statutory penalty factors set forth in Section 113(e) of the Act, 42 U.S.C. § 7413(e) (which include the size of the business, economic impact of the penalty, the violator's full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence, the economic benefit of noncompliance, the payment of penalties previously assessed for same violation, the seriousness of violation and such other matters as justice may require), and EPA's Clean Air Act Stationary Source Civil Penalty Policy (dated October 25, 1991), as indexed for inflation in keeping with 40 C.F.R. Part 19 (Adjustment to Civil Monetary Penalties for Inflation). Complainant has determined that Respondent's payment of this civil penalty shall constitute full and final satisfaction of the violations set forth in Section III of this Consent Agreement.
28. Respondent shall pay the civil penalty of Thirty Thousand Dollars (\$30,000.00) no later than thirty (30) days after the effective date of this Consent Agreement and accompanying Final Order in order to avoid the assessment of interest, administrative costs, and late payment penalties in connection with such civil penalty as described in this Consent Agreement and accompanying Final Order.
29. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. §13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment or to comply with the conditions in this Consent Agreement and Final Order shall result in the assessment of late payment

charges including interest, penalties, and/or administrative costs of handling delinquent debts.

30. Interest on the civil penalty assessed in this Consent Agreement and Final Order will begin to accrue on the date that a copy of this executed Consent Agreement and Final Order is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).
31. The cost of EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's Resources Management Directives - Cash Management, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
32. A penalty charge of six percent per year will be assessed monthly on any portion of the civil penalty which remains delinquent for more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
33. Thus, in accordance with the above provisions, to avoid the assessment of interest, late payment penalties, and handling charges on the penalty set forth herein, Respondent must pay the full amount of the civil penalty, in the manner directed, within thirty (30) days of the effective date of this Consent Agreement and accompanying Final Order.
34. Payment of the penalty in Paragraph 26 shall be made by cashier's check, certified check, or electronic wire transfer, Automated Clearing House ("ACH"), or an on line, internet payment as specified below. All payments are payable to Treasurer, United States of America and shall reference the above case caption and docket number.

All checks shall be made payable to Treasurer, United States of America and shall be mailed to the attention of:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P. O. Box 979077  
St. Louis, MO 63197-9000  
Contact: Eric Volck (513) 487-2105.

Overnight deliveries shall be sent to:

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

Contact: (314) 418-1028.

All electronic wire transfer payments shall be directed to:

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York NY 10045  
Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental  
Protection Agency"

Payments through ACH (also known as REX or remittance express) shall be directed to:

U.S Treasury REX/Cashlink ACH Receiver  
ABA = 051036706  
Account 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 - checking  
33 Liberty Street  
New York, N.Y. 10045

An on-line, internet payment option, is also available through the United States Department of Treasury. This payment option can be accessed from [www.pay.gov](http://www.pay.gov). Enter sfo 1.1 in the search field. Open form and complete required fields.

35. All payments made by check also shall reference the above case caption and docket number, CAA-03-2010-00375. At the same time that any payment is made, copies of any corresponding check or written notification confirming any electronic transfer through wire transfer, ACH, or internet payment shall be mailed to Lydia A. Guy, Regional Hearing Clerk (3RC00), U.S. EPA, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029, to Neil R. Bigioni, Esq., Senior Assistant Regional Counsel (3RC10), U.S. EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103-2029, and to Zelma Maldonado (3AP20), U.S. EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103-2029.

36. Respondent agrees not to deduct for federal tax purposes the civil penalty specified in, and any civil penalty amount paid pursuant to, this Consent Agreement and accompanying Final Order.
37. Each party to this action agrees to pay its own costs and attorney fees.
38. Payment of the penalty specified in Paragraph 26 in the manner set forth in this Consent Agreement and payment of any applicable interest, handling costs and/or late payment charges as set forth above shall constitute full and final satisfaction of all civil claims for penalties for the specific violations alleged in Section III of this Consent Agreement. Compliance with this Consent Agreement and accompanying Final Order shall not be a defense to any action commenced at any time for any other violation of any federal laws and regulations administered by EPA.
39. Respondent's failure to make timely payment of the civil penalty or any portion of the civil penalty provided herein may result in referral of this matter to the United States Attorney for enforcement of this Consent Agreement and the accompanying Final Order in the appropriate United States District Court. Additionally, Respondent's failure to make timely payment of the civil penalty or any portion of the civil penalty provided herein may result in the assessment of additional interest, penalties and/or late payment penalty charges.

#### **V. Reservation of Rights**

40. This Consent Agreement and the accompanying Final Order resolve only the civil claims for the specific violations alleged in Section III of this Consent Agreement. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. Nor shall anything in this Consent Agreement and Final Order be construed to limit the United States' authority to pursue criminal sanctions. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in 40 C.F.R. § 22.18(c). Further, Complainant reserves any rights and remedies available to it under the Act, the regulations promulgated thereunder, and any other federal laws or regulations for which Complainant has jurisdiction, to enforce the provisions of this Consent Agreement and accompanying Final Order following its filing with the Regional Hearing Clerk.

#### **VI. Effective Date**

41. The effective date of this Consent Agreement and the accompanying Final Order is the date on which the Consent Agreement and Final Order is filed with the Regional Hearing Clerk of EPA Region III.

**VII. Entire Agreement**

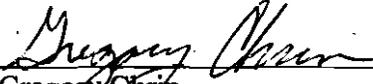
42. This Consent Agreement and the accompanying Final Order constitute the entire agreement and understanding of the parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Consent Agreement and the accompanying Final Order. Nothing in this Consent Agreement or the accompanying Final Order shall be construed to affect or limit in any way the obligation of Respondent to comply with all federal, state and local laws and regulations governing any activity required by this Consent Agreement and the accompanying Final Order.

**VII. Execution**

43. The person signing this Consent Agreement on behalf of Respondent acknowledges and certifies by his/her signature that he/she is fully authorized to enter into this Consent Agreement and to legally bind Respondent, to the terms and conditions of this Consent Agreement and the accompanying Final Order.

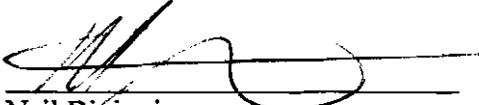
For Respondent Chrin Brothers, Inc.:

8/23/10  
Date

  
Gregory Chrin  
Vice President  
Chrin Brothers, Inc.  
635 Industrial Drive  
Easton, PA 18042

For Complainant:

9/7/10  
Date

  
Neil Bigioni  
Senior Assistant Regional Counsel  
U.S. EPA, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029

Accordingly, the Air Protection Division, United States Environmental Protection Agency, Region III, recommends that the Regional Administrator or his designee, the Regional Judicial Officer, issue the accompanying Final Order and thereby ratify this Consent Agreement and the terms and provisions herein.

9/1/2010

Date

*Diana Esher*

Diana Esher, Director  
Air Protection Division  
U.S. EPA, Region III  
1650 Arch Street  
Philadelphia, PA 19103

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029**

**IN RE:** :  
 :  
**CHRIN BROTHERS, INC.** :  
**635 Industrial Drive** :  
**Easton, Pennsylvania, 18042** : **Docket No. CAA-03-2010-0375**  
 :  
**Respondent.** :

**FINAL ORDER**

The undersigned accepts and incorporates into this Final Order by reference the Preliminary Statement, General Provisions, Findings of Fact and Conclusions of Law, Settlement Recitation, Settlement Conditions and Civil Penalty, Reservation of Rights, Waiver of Hearing, Effective Date, Entire Agreement and Execution provisions set forth in Sections I through IX of the foregoing Consent Agreement executed by Respondent Chrin Borthers, Inc. (hereinafter referred to as "Respondent"), and by Complainant, the Director of the Air Protection Division, U.S. Environmental Protection Agency, Region III ("U.S. EPA, Region III").

NOW THEREFORE, pursuant to 40 C.F.R. § 22.18(b)(3), the undersigned ratifies the foregoing Consent Agreement and HEREBY ORDERS that Respondent shall be liable for a civil penalty of thirty thousand dollars (\$30,000.00) for the civil violations alleged therein. It is FURTHER ORDERED that Respondent shall pay the entire amount of the civil penalty in accordance with the attached Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

This **FINAL ORDER** shall become final and effective upon the date that it is filed with the Regional Hearing Clerk, U.S. EPA, Region III.

9/9/10  
Date

  
Renée Sarajian  
Regional Judicial Officer

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

U.S. ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 ARCH STREET  
PHILADELPHIA, PA 19103-2029

IN RE: :  
:   
CHRIN BROTHERS, INC. :  
635 Industrial Drive :  
Easton, Pennsylvania, 18042 : Docket Nos. CAA-03-2010-0375  
: CAA-03-2010-0376DA  
Respondent. :

CERTIFICATE OF SERVICE

I hereby certify that the original and one copy of the attached Consent Agreement and Final Order was served, via hand delivery, to Ms. Lydia A. Guy, Regional Hearing Clerk, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103-2029

I further certify that a true and correct copy of the attached Administrative Order was served by Certified Mail, Return Receipt Requested, Postage Prepaid to:

Mark C. Hammond, Esq  
Drinker Biddle & Reath  
One Logan Square  
18<sup>th</sup> and Cherry Streets  
Philadelphia, PA 19103-6996

9/9/10  
\_\_\_\_\_  
DATE

*Bevin Esposito*  
\_\_\_\_\_  
Bevin Esposito  
Lead Paralegal Specialist  
U.S. EPA, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029  
(215) 814-2637