

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:)	Docket No. TSCA-05-2025-0003
)	
DLD Environmental Services, Inc.)	Consent Agreement and Final Order
Plainwell, MI,)	Under Section 16(a) of the Toxic
)	Substances Control Act,
)	15 U.S.C §2615 (a)
Respondent.)	
_____)	

Consent Agreement and Final Order**Preliminary Statement**

1. This is a civil administrative action instituted 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 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 DLD Environmental Services, Inc. (Respondent), a business incorporated in the State of Michigan, with a place of business at 331 Broad Street, Plainwell, MI 49080.

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 Right to Hearing

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 in 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 the consent agreement.

Statutory and Regulatory Background

10. EPA promulgated the Polychlorinated Biphenyls (PCB) Disposal and Marking regulations pursuant to Section 6(e)(1) of TSCA, 15 U.S.C. § 2605(e)(1), on February 17, 1978 (43 Fed. Reg. 7150). EPA promulgated the PCB Manufacturing, Processing, Distribution in Commerce and Use regulations (PCB Rules) on May 31, 1979 (44 Fed. Reg. 31514) and incorporated the disposal and marking regulations. EPA subsequently amended the PCB rule and partially recodified it at 40 C.F.R. Part 761.

11. 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 use or dispose of PCBs or PCB items; and 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.

12. The PCB regulation at 40 C.F.R. § 761.3 defines the term “person” to mean any natural or judicial person including any individual, corporation, partnership, or association; any State or political subdivision thereof; any interstate body; and any department, agency, or instrumentality of the Federal Government.

13. The PCB regulation at 40 C.F.R. § 761.3 defines “disposal” to mean to intentionally or accidentally discard, throw away, or otherwise complete or terminate the useful life of PCBs and PCB items, including 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.

14. The PCB regulation at 40 C.F.R. § 761.3 defines “PCB Container” to mean any package, can, bottle, bag, barrel, drum, tank, or other device that contains PCBs or PCB Articles and whose surface(s) has been in direct contact with PCBs.

15. The PCB regulation at 40 C.F.R. § 761.3 defines “PCB Article Container” to mean any package, can, bottle, bag, barrel, drum, tank, or other device used to contain PCB Articles or PCB Equipment, and whose surface(s) has not been in direct contact with PCBs.

16. The PCB regulation at 40 C.F.R. 761.3 defines the term “PCB Equipment” to mean any manufactured item, other than a PCB Container or a PCB Article Container, which contains a PCB Article or other PCB Equipment, and includes microwave ovens, electronic equipment, and fluorescent light ballasts and fixtures.

17. 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.

Factual Allegations

18. 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.

19. Respondent is, and at all times relevant to this CAFO was, the owner and operator, of the facility at 331 Broad Street in Plainwell, Michigan (Facility).

20. On September 1, 2020, the U.S. EPA approved a renewal application submitted by Respondent’s predecessor—Drug and Laboratory Disposal, Inc.—to commercially store PCB waste at the Facility pursuant to 15 U.S.C. § 2605(e)(1) and 40 C.F.R. Part 761 (Approval).

21. Respondent was, pursuant to the Approval, the owner or operator of a facility used for the commercial storage of PCBs and PCB items.

22. On September 7, 2023, a representative of the U.S. EPA inspected the Respondent’s Facility.

Alleged Violations

Count 1

23. Complainant incorporates paragraphs 1 through 22 of the CAFO as if set forth in this paragraph.

24. 40 C.F.R. § 761.40(a)(1) requires that any PCB Containers in existence after July 1, 1978 must be marked in accordance with that subpart.

25. During the September 7, 2023 inspection, the U.S. EPA observed two PCB Containers in the DSL-1 Storage Area at Respondent’s Facility that were not marked in accordance with 40 C.F.R. § 761.40(a)(1).

26. Respondent's failure to mark PCB Containers at the DSL-1 Storage Area constitutes a violation of 40 C.F.R § 761.40(a)(1).

Count 2

27. Complainant incorporates paragraphs 1 through 22 of the CAFO as if set forth in this paragraph.

28. 40 C.F.R. § 761.40(a)(1) requires that any PCB Containers in existence after July 1, 1978 must be marked in accordance with that subpart.

29. During the September 7, 2023 inspection, the U.S. EPA observed four PCB Containers in the DSL-5 Storage Area at Respondent's Facility that were not marked in accordance with 40 C.F.R. § 761.40(a)(1).

30. The Respondent's Failure to mark PCB Containers at the DSL-5 Storage Area constitutes a violation of 40 C.F.R § 761.40(a)(1).

Count 3

31. Complainant incorporates paragraphs 1 through 22 of the CAFO as if set forth in this paragraph.

32. Approval Condition H.3.(e) requires Respondent to maintain records demonstrating that the worker training requirements of Approval Conditions E.4. and E.5., which require Respondent to record the name and title of the individual taking training, the dates of training, and a signature sheet certifying that the signatory completed training in accordance with the DLD training manual on the date specified.

33. During the September 7, 2023 inspection, Respondent was unable to produce a training records and files for its staff that handle PCBs.

34. Respondent's failure to maintain training records as required constitutes a violation of

the Approval Condition H.3.(e).

Counts 4 to 6

35. Complainant incorporates paragraphs 1 through 22 of the CAFO as if set forth in this paragraph.

36. 40 C.F.R. § 761.180(b) requires owners or operators of commercial storage facilities to prepare and maintain a written annual document log. That paragraph also requires that the annual log be maintained for at least 3 years.

37. During the September 7, 2023 inspection, Respondent was unable to produce a written annual document log for 2020, 2021, and 2022.

38. Respondent's failure to prepare and provide each annual document log for the years 2020, 2021, and 2022 constitutes three separate violations of 40 C.F.R § 761.180(b).

Count 7

39. Complainant incorporates paragraphs 1 through 22 of the CAFO as if set forth in this paragraph.

40. Approval Condition G.2. required Respondent to maintain a Spill Prevention Control and Countermeasure (SPCC) Plan at the Facility, and to make it available to all workers at the Facility.

41. Both the definition of SPCC Plan in the Approval and the PCB Regulations, at 40 C.F.R. § 761.65(d)(7)(ii), require that the SPCC Plan conform to the requirements in 40 C.F.R. Part 112.

42. 40 C.F.R. § 112.3(e)(2) requires that, for all owners or operators of Facilities required to maintain an SPCC Plan under that section, the plan is available to the Regional Administrator for review during normal working hours.

43. At the time of inspection, Respondent was unable to produce a current SPCC Plan.

44. The Respondent's failure to maintain a copy of their SPCC Plan at the Facility constitutes a violation of the Approval Condition G.2.

Civil Penalty

45. Pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, Complainant determined that an appropriate civil penalty to settle this action is \$10,245. In determining the penalty amount, Complainant took into account 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.

46. Respondent agrees to pay a civil penalty in the amount of **\$10,245** ("Assessed Penalty") within thirty (30) days after the date the Final Order ratifying this Agreement is filed with the Regional Hearing Clerk ("Filing Date"). 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>.

47. When making a payment, Respondent shall:

- a. Identify every payment with Respondent's name and the docket number of this Agreement, TSCA-05-2025-0003.
- 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

Jaime L. Brown
Land Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency, Region 5

Brown.Jaime.L@epa.gov and
R5LEECAB@epa.gov

James Bonar-Bridges
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
BonarBridges.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.

48. Interest, Charges, and Penalties on Late Payments. Pursuant to 15 U.S.C. § 2615, 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay any portion of the Assessed Penalty per this Agreement, the entire unpaid balance of the Assessed Penalty and all accrued interest shall become immediately due and owing, and EPA is authorized to recover 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.

49. 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. Per 15 U.S.C. § 2615(a), the Attorney General will bring a civil action in the appropriate district court to recover the full remaining balance of the debt plus interest. In such an action, the validity, amount, and appropriateness of the Assessed Penalty shall not be subject to review.

50. 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.

51. 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

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

addresses: bonarbridges.james@epa.gov (for Complainant), and bwalter@dldes.com (for Respondent). Respondent understands that the CAFO will become publicly available upon filing.

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

54. 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.

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

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

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

58. 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.

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

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

DLD Environmental Services, Respondent

05/20/2025
Date

Brent W. Walter
Signature
Brent W. Walter
President
DLD Environmental Services

United States Environmental Protection Agency, Complainant

Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division

**In the Matter of:
DLD Environmental Services
Docket No. TSCA-05-2025-0003**

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.

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