

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

In the Matter of:

Cruzan Viril, LTD
Respondent

Proceeding under Section 3008 of the Solid
Waste Disposal Act, as amended

CONSENT AGREEMENT AND FINAL ORDER

Docket No. RCRA-02-2025-7106

PRELIMINARY STATEMENT

This Consent Agreement is entered under the authority of Section 3008(a) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 and other statutes (collectively referred to hereinafter as “RCRA”) and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R., Part 22.

Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), authorizes the U.S. Environmental Protection Agency (“EPA”) Administrator to assess civil penalties for any past or current violation, and to issue compliance orders requiring compliance with requirements that are subject to enforcement under section 3008. This authority has been redelegated to the Director of the Caribbean Environmental Protection Division, Region 2, EPA (“Complainant”).

EPA and Cruzan Viril LTD. (“Cruzan” or “Respondent”) have agreed to a settlement of this action before the filing of a complaint, and thus this action is being simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules of Practice.

The Complainant and Respondent (collectively referred to as “the parties”) agree, by entering this Consent Agreement, that settlement of this matter upon the terms set forth herein is an appropriate means of resolving the claims specified herein against Respondent without litigation. The parties held an initial settlement conference on February 27, 2024, and discussions thereafter, which led to this settlement. The findings of fact and conclusions of law

set forth below, which pertain to times relevant to this proceeding, are not intended, nor are they to be construed, as Respondent either admitting or denying such findings and conclusions. No adjudicated finding of fact or conclusions of law have been made.

STATUTORY AND REGULATORY FRAMEWORK

1. RCRA establishes a framework for the regulation of the handling and management of non-hazardous and hazardous solid wastes. 42 U.S.C. § 6901 *et seq.*
2. RCRA Subtitle C, as amended, establishes the hazardous waste management program. 42 U.S.C. §§ 6921–6939g.
3. The requirements for hazardous waste generators are set forth at 40 C.F.R., Part 262.
4. The requirements for hazardous waste generators establish basic hazardous waste management standards for persons who produce hazardous waste, called hazardous waste generators.
5. Pursuant to Section 3006(b) of the Act, 42 U.S.C. § 6926(b), the Administrator of EPA may, if certain criteria are met, authorize a state to operate a “hazardous waste program” (within the meaning of Section 3006 of the Act, 42 U.S.C. § 6926) in lieu of the federal hazardous waste program.
6. The Government of the United States Virgin Islands is a “State” within the definitions in 42 U.S.C. § 6903(31), however, it is not authorized by EPA to conduct hazardous waste management programs under Section 3006 of RCRA, 42 U.S.C. § 6926. Therefore, EPA retains primary authority for the implementation and enforcement of RCRA’s hazardous waste program and regulations in the United States Virgin Islands.
7. Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), authorizes a civil penalty of not more than \$25,000 per day for each violation. The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, 28 U.S.C. § 2461, and implementing regulations at 40 C.F.R. § 19.4, increased the statutory maximum penalties to \$124,426 for violations that occur after November 2, 2015, and for which penalties are assessed on or after January 8, 2025. In assessing any such penalty, EPA must take into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

EPA’S FINDINGS OF FACT AND CONCLUSIONS OF LAW

8. Respondent d/b/a “Cruzan Rum Distillery” is a for-profit corporation organized under the laws of the Government of the United States Virgin Islands. The company's line of business includes the manufacturing of alcoholic liquors by distillation.

9. Respondent is a “person” within the meaning of Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and 40 C.F.R. § 260.10.

10. Respondent owns and operates a distillery facility at 3A Estate Diamond, Frederiksted, St. Croix, Virgin Islands, (hereinafter the “Facility”).

11. Respondent’s Facility constitutes a “facility,” within the meaning of 40 C.F.R. § 260.10.

12. Respondent is and has been at all relevant times the “owner” of the Facility as that term is defined in 40 C.F.R. § 260.10.

13. Respondent is and has been at all relevant times the “operator” of the Facility as that term is defined in 40 C.F.R. § 260.10.

14. On or about December 7, 2009, Cruzan submitted a Notification of Hazardous Waste Activity as a Small Quantity Generator of hazardous waste. EPA assigned the Facility EPA Identification Number VIR000001453.

15. Respondent is and has been at all relevant times a “generator” of “hazardous waste,” as those terms are defined in 40 C.F.R. § 260.10, at the Facility.

16. Respondent is a “small quantity generator” as that term is defined in 40 C.F.R. § 260.10.

17. Respondent never received interim status or a permit authorizing it to receive, store, treat, or dispose of hazardous waste at its Facility.

18. On August 5, 2022, EPA performed a Compliance Evaluation Inspection at the Facility (hereinafter “the Inspection”) pursuant to Section 3007 of RCRA, 42 U.S.C. § 6927.

EPA’s Allegations of Violations

19. Complainant hereby states and alleges that Respondent has violated RCRA and the federal regulations promulgated thereunder, as follows:

First Violation Failure to Make Hazardous Waste Determination

20. Pursuant to 40 C.F.R. § 262.11, a person who generates “solid waste,” as defined in 40 C.F.R. § 261.2, must determine if the solid waste is a hazardous waste.

21. Pursuant to 40 C.F.R. § 261.2, subject to certain exclusions, a “solid waste” is any “discarded material,” including “abandoned,” “recycled” or “[c]onsidered inherently waste-like” materials, as those terms are further defined therein.

22. At the time of the Inspection, EPA found various containers that had been placed at the top of a yellow shelf at the Facility’s QA/QC Laboratory Satellite Accumulation Area. The yellow shelf was identified with the words “Caution-Flammable-Keep Fire Away-Hazardous is Waste.”

23. At the time of the Inspection, the Respondent had not made a hazardous waste determination on the containers observed at the top of the yellow shelf at the Facility’s QA/QC Laboratory Satellite Accumulation Area.

24. Respondent’s failure to make a hazardous waste determination for the solid waste generated at its Facility constitutes a violation of 40 C.F.R. § 262.11.

25. Respondent’s failure to comply with 40 C.F.R. § 262.11 subjects it to penalties and injunctive relief pursuant to Section 3008 of the Act, 42 U.S.C. § 6928.

Second Violation

Operation of Hazardous Waste, Treatment, Storage or Disposal Facility without a RCRA Permit

26. Pursuant to 40 C.F.R. § 262.16, a small quantity generator may accumulate hazardous waste on site without a permit or interim status, and without complying with the requirements of 40 C.F.R. Parts 124, 264 through 267, and 270 , or the notification requirements of section 3010 of RCRA for treatment, storage, and disposal facilities, provided that all the conditions for exemption listed in 40 C.F.R. § 262.16 are met.

Accumulation of hazardous waste in containers – Condition of containers

27. Pursuant to 40 C.F.R. § 262.16(b)(2)(i), if a container holding hazardous waste is not in good condition, or if it begins to leak, the small quantity generator must immediately transfer the hazardous waste from this container to a container that is in good condition, or immediately manage the waste in some other way that complies with the conditions for exemption of this section.

28. During the Inspection, EPA found various containers stored in the Facility’s Hazardous Waste Accumulation Area with the following deficiencies:

- a. One (1) 55-gallon black steel container identified as “on hold” had a label that was difficult to read, and was full, closed, with signs of corrosion on its lid.

- b. One (1) 5-gallon black steel container with unknown content, unlabeled without date indicating when accumulation of hazardous waste had started in the container, and it was rusted with signs of corrosion.
- c. One (1) 30-gallon black steel container with unknown content, unlabeled, without a date indicating when accumulation of hazardous waste had started in the container, and it was rusted with signs of corrosion.
- d. One (1) 55-gallon container with unknown content, unlabeled and it was rusted with signs of corrosion.

29. Respondent failed to maintain containers in good condition at its Facility as required by 40 C.F.R. § 262.16(b)(2)(i).

Labeling and Marking of Containers

30. Pursuant to 40 C.F.R. § 262.16(b)(6)(i)(A), a small quantity generator must mark or label its containers with the words “Hazardous Waste.”

31. Pursuant to 40 C.F.R. § 262.16(b)(6)(i)(B), a Respondent must mark or label its containers with an indication of the hazards of the contents [examples include, but are not limited to, the applicable hazardous waste characteristic(s) (*i.e.*, ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 C.F.R., Part 172, Subpart E (labeling), or Subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 C.F.R. § 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association Code 704].

32. Pursuant to 40 C.F.R. § 262.16(b)(6)(i)(C), the date upon which each period of accumulation begins must be clearly visible for inspection on each container.

33. During the Inspection, EPA found that Respondent did not mark or label its containers with the words “Hazardous Waste,” did not have a pictographic label or an indication of the hazards of the contents, and did not have the date upon which each period of accumulation began clearly visible, as follows:

- a. One (1) 55-gallon blue container with ethanol waste and acetone at the bottom of the yellow shelf at the QA/QC Laboratory SAA was labeled as “hazardous waste,” but it had no pictographic label nor an indication of the hazards of the contents.
- b. One (1) 55-gallon black steel container identified as “on hold” was observed with a label not legible at the Facility’s Hazardous Waste Accumulation Area.

- c. One (1) 55-gallon blue plastic container that did not have any label and/or information related to its content at the Facility's Hazardous Waste Accumulation Area.
 - d. One (1) 55-gallon black steel container at the Facility's Hazardous Waste Accumulation Area with waste resin solution had a pictographic label, but it was scratched and not legible. In addition, the container did not have any indication of the hazards of its contents.
 - e. One (1) 5-gallon black steel container with unknown content was observed unlabeled and without a date at the Facility's Hazardous Waste Accumulation Area.
 - f. One (1) 30-gallon black steel container with unknown content at the Facility's Hazardous Waste Accumulation Area was not labeled and did not have an accumulation start date.
 - g. One (1) 55-gallon container with unknown content and unlabeled was observed at the Facility's Hazardous Waste Accumulation Area.
34. Respondent failed to mark or label its containers with the words "Hazardous Waste" as required by 40 C.F.R. § 262.16(b)(6)(i)(A).
35. Respondent failed to provide an indication of the hazards of the contents, a hazard statement or pictogram, or a chemical hazard label as required by 40 C.F.R. § 262.16(b)(6)(i)(B).
36. Respondent failed to provide a date upon which each period of accumulation began clearly visible for inspection as required by 40 C.F.R. § 262.16(b)(6)(i)(C).

Preparedness and Prevention

37. Pursuant to 40 C.F.R. § 262.16(b)(8)(i), a small quantity generator must maintain and operate its facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.

38. Pursuant to 40 C.F.R. § 262.16(b)(9)(ii), the small quantity generator must post the following information next to telephones or in areas directly involved in the generation and accumulation of hazardous waste: the name and emergency telephone number of the emergency coordinator; location of fire extinguishers and spill control material, and, if present, fire alarm; and the telephone number of the fire department, unless the facility has a direct alarm.

39. Pursuant to 40 C.F.R. § 262.16(b)(8)(ii)(D), the small quantity generator must equip all areas where hazardous waste is either generated or accumulated with water at adequate volume and pressure to supply water hose streams, or foam producing equipment, automatic sprinklers, or water spray systems.

40. Pursuant to 40 C.F.R. § 262.16(b)(8)(v), the small quantity generator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.

41. On or about August 26, 2022, Cruzan submitted to EPA information requested during the Inspection.

42. Based on the Inspection and EPA's review of the information submitted by Cruzan, EPA found the following:

- a. A log for the QA/QC Laboratory Satellite Accumulation Area and information about the containers and their contents observed at the top of the yellow shelf was not provided.
- b. Segregation of hazardous waste was not observed among the containers found at the top of the yellow shelf at the QA/QC Laboratory Satellite Accumulation Area.
- c. Unidentified containers were observed at the Hazardous Waste Accumulation Area.
- d. Segregation of hazardous wastes was not observed among the containers at the Hazardous Waste Accumulation Area.
- e. Emergency information was not posted next to telephones nor at the areas directly involved in the generation and accumulation of hazardous waste at the Hazardous Waste Accumulation Area.
- f. Respondent did not have water at adequate volume and pressure to supply water hose streams, or foam producing equipment, automatic sprinklers, or water spray systems at the Hazardous Waste Accumulation Area.
- g. There was no aisle space between containers to allow the unobstructed movement of personnel and EPA inspector at the Hazardous Waste Accumulation Area.

43. Respondent failed to maintain and operate its facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste as required by 40 C.F.R. § 262.16(b)(8)(i).

44. Respondent failed to post the required information next to telephones or in areas directly involved in the generation and accumulation of hazardous waste as required by 40 C.F.R. § 262.16(b)(9)(ii).

45. Respondent failed to have water at adequate volume and pressure to supply water hose streams, or foam producing equipment, or automatic sprinklers, or water spray systems at the Hazardous Waste Accumulation Area as required by 40 C.F.R. § 262.16(b)(8)(ii)(D).

46. Respondent failed to maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency as required by 40 C.F.R. § 262.16(b)(8)(v).

47. Pursuant to Section 3005 of RCRA, 42 U.S.C. § 6925, the operation of a hazardous waste treatment, storage or disposal facility without interim status or a permit is prohibited.

48. Pursuant to 40 C.F.R. 270.1(c) a permit is required for the treatment, storage, and disposal of any hazardous waste.

49. Respondent's hazardous waste storage without having interim status or a permit constitutes a violation of Section 3005 of RCRA and 40 C.F.R. § 270.1(c).

50. Respondent's failure to comply with Section 3005 of RCRA and 40 C.F.R. § 270.1(c) subjects it to penalties and injunctive relief pursuant to Section 3008 of the Act, 42 U.S.C. § 6928.

CONSENT AGREEMENT

51. Pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928, and 40 C.F.R. § 22.18 of the Consolidated Rules of Practice, it is hereby agreed by and between the Parties hereto, and voluntarily and knowingly accepted by Respondent, that Respondent, for purposes of this Consent Agreement and in the interest of settling this matter expeditiously without the time, expense or uncertainty of a formal adjudicatory hearing on the merits:

- a. admits the jurisdictional basis for EPA prosecuting this case;

- b. neither admits nor denies the allegations relating to the two violations specified in EPA's Findings of Fact and Conclusions of Law section, above;
- c. consents to the issuance of the Final Order incorporating all the provisions of this Consent Agreement;
- d. consents to the assessment of the civil penalty specified herein and the requirement to perform the compliance actions described below.
- e. waives any right to contest EPA's Findings of Fact and Conclusions of Law including EPA's allegations regarding the Facility set forth therein; and
- f. 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.

52. The Parties agree to the terms of this Consent Agreement and Final Order ("CA/FO") and Respondent agrees to comply with the terms specified herein.

53. The Parties agree to resolve this matter without the necessity of a formal hearing and to bear their respective costs and attorneys' fees.

54. Respondent agrees that EPA may serve Respondent, through the representative designated in Paragraph 65 below, a copy of the fully executed CA/FO. Respondent consents to service of the CA/FO upon it by email.

Penalty Payment

55. Respondent agrees to pay a civil penalty in the amount of **\$64,276** ("Assessed Penalty") within thirty (30) days after the date the Final Order ratifying this Agreement is filed with the **Regional Hearing Clerk** ("Filing Date").

56. 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>.

57. When making a payment, Respondent shall:

- a. Identify every payment with Respondent's name and the docket number of this Agreement, RCRA-02-2025-7106,

- b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve proof of such payment to the following person(s):

Karen Maples
Regional Hearing Clerk
maples.karen@epa.gov

David Cuevas
Supervisor, RCRA and Revitalization Section
Caribbean Environmental Protection Division
cuevas.david@epa.gov

and

U.S. Environmental Protection Agency
Cincinnati Finance Center
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.

58. 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 as provided in this CA/FO, 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.

59. 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 as provided in this CA/FO, 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.

60. 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 administrative costs, second to penalty assessments, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.

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

Compliance Actions

62. Respondent shall take the following actions within the time periods specified, according to the terms and conditions specified below.

- a. Within thirty (30) calendar days of the effective date of this CA/FO, Respondent shall make the hazardous waste determinations for each solid waste generated at its Facility as set forth in 40 C.F.R. § 262.11.
- b. Within thirty (30) calendar days of the effective date of this CA/FO, Respondent shall comply with all applicable requirements to maintain containers in good condition as set forth in 40 C.F.R. § 262.16(b)(2)(i).
- c. Within thirty (30) calendar days of the effective date of this CA/FO, Respondent shall comply with all applicable requirements to mark or label its containers with the following: (i) the words "Hazardous Waste" as set forth in 40 C.F.R. § 262.16(b)(6)(i)(A), (ii) an indication of the hazards of the contents, (iii) a hazard statement or pictogram or a chemical hazard label as set forth 40 C.F.R. § 262.16(b)(6)(i)(B), and (iv) the date upon which each period of accumulation begins clearly visible for inspection on each container as set forth in 40 C.F.R. § 262.16(b)(6)(i)(C).
- d. Within thirty (30) calendar days of the effective date of this CA/FO, Respondent shall comply with all applicable requirements to maintain and operate its facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste as set forth in 40 C.F.R. § 262.16(b)(8)(i) and shall post the required information next to telephones or in areas directly involved in the generation and accumulation of hazardous as set forth in 40 C.F.R. § 262.16(b)(9)(i).
- e. Within thirty (30) calendar days of the effective date of this CA/FO, Respondent shall comply with all applicable requirements to have water at adequate volume and pressure to supply water hose streams, or foam producing equipment, or automatic sprinklers, or water spray systems at the Hazardous Waste Accumulation Area as set forth in 40 C.F.R. § 262.16(b)(8)(ii)(D) and to maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency as set forth in 40 C.F.R. § 262.16(b)(8)(v).
- f. Respondent shall submit a compliance certification within forty-five (45) calendar days of the effective date of this CA/FO. The certification shall detail the Respondent's compliance steps and include any appropriate supporting documentation. If Respondent is in noncompliance with an ordered provision, the certification shall state the reasons for noncompliance and shall provide a schedule to bring its Facility into prompt compliance.

Submittal and Certification

63. Any submittal required pursuant to this CA/FO may be signed electronically, so long as Respondent uses a “particular electronic signature device” that complies with the requirements of 40 C.F.R. § 3.4(d).

64. All documents submitted by Respondent pursuant to this CA/FO which make any representation concerning Respondent’s compliance or noncompliance with any requirement of this CA/FO shall be certified by a duly authorized representative of Respondent. A person is a “duly authorized representative” only if: (a) the authorization is made in writing; and (b) the authorization specifies either an individual or position having responsibility for overall operation of the Facility or relevant Facility activity. The certification required by this Paragraph shall be in the following form:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Please include Signature, Name and Title.

65. Except as the parties may agree otherwise in writing, all documentation and information required to be submitted in accordance with the terms and conditions of this CA/FO shall be sent to:

Rosana Caballer-Cruz
U.S. Environmental Protection Agency, Region 2
Caribbean Environmental Protection Division
Response & Remediation Branch
City View Plaza II, Suite 7000
#48 RD. 165 km 1.2
Guaynabo, PR 00968-8069
caballer.rosana@epa.gov

and

Suzette M. Meléndez Colón, Assistant Regional Counsel
Office of Regional Counsel
United States Environmental Protection Agency, Region 2
City View Plaza II, Suite 7000
#48 RD. 165 km 1.2
Guaynabo, PR 00968-8069
melendez-colon.suzette@epa.gov

Unless the above-named EPA contacts are later advised otherwise in writing, EPA shall address any future written communications related to this matter (including any correspondence related to payment of the penalty) to Respondent at the following address:

Corin Kaough, EHS Manager
Cruzan VIRIL, Ltd
3A Estate Diamond,
Frederiksted, USVI 00840
corin.kaough@cruzanrum.com

and

Jennifer J. Cave
Stites & Harbison PLLC
400 West Market Street, Suite 1800
Louisville, KY 40202-3352
jcave@stites.com

Effect of Settlement and Reservation of Rights

66. Full payment of the penalty in this CA/FO shall only resolve Respondent's liability for federal civil penalties for the violations described herein in EPA's Findings of Fact and Conclusions of Law.

67. The effect of settlement described in the immediately preceding Paragraph is conditioned upon the accuracy of Respondent's representations to the EPA.

68. Full payment of the penalty in this CA/FO shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This CA/FO does not waive, extinguish, or otherwise affect Respondent's obligation to comply with all applicable provisions of RCRA and other statutes and regulations promulgated thereunder.

69. Notwithstanding any other provision of this CA/FO, EPA reserves the right to enforce the terms and conditions of this CA/FO by initiating a judicial or administrative action under Section 3008 of RCRA, 42 U.S.C. § 6928, and to seek penalties against Respondent in an amount not to exceed \$73,045 per day, per violation, pursuant to Section 3008(c) of RCRA and 40 C.F.R. § 19.4, for each day of non-compliance with the terms of this CA/FO, or to seek any other remedy allowed by law.

70. Nothing contained in this CA/FO shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, territorial, and local environmental statutes and regulations and applicable permits.

General Provisions

71. By signing this Consent Agreement, the undersigned representative of Respondent certifies that he or she is fully authorized to execute and enter into the terms and conditions of this Consent Agreement and has the legal capacity to bind the party he or she represents to this Consent Agreement.

72. This Consent Agreement shall not dispose of the proceeding without a final order from the Regional Judicial Officer or Regional Administrator ratifying the terms of this Consent Agreement. This CA/FO shall be effective upon filing with the Regional Hearing Clerk for EPA, Region 2. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

73. For purposes of the identification requirement in the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 1.162-21(b)(2), performance of Compliance Actions set forth in Paragraph 62 in the Consent Agreement portion of this Consent Agreement and Final Order is restitution, remediation, or required to come into compliance with the law.

74. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to annually send to the Internal Revenue Service ("IRS") a completed IRS Form 1098-F ("Fines, Penalties, and Other Amounts") with respect to any court order or settlement agreement (including administrative settlements), that requires a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor's violation of any law or the investigation or inquiry into the payor's potential violation of any law, including amounts paid for "restitution or remediation of property" or to come "into compliance with a law." EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Respondent's failure to comply with providing IRS Form W-9 or Tax Identification Number ("TIN"), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. To provide EPA with sufficient information to enable it to fulfill these obligations, Respondent shall complete the following actions as applicable.

- a. Respondent shall complete an IRS Form W-9 ("Request for Taxpayer Identification Number and Certification"), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>
- b. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent's correct TIN or that Respondent has applied and is waiting for issuance of a TIN;
- c. Respondent shall email its completed Form W-9 to EPA's Cincinnati Finance Center at wise.milton@epa.gov, on or before the date that Respondent's penalty payment is due, pursuant to Paragraph 55 of the CA/FO, or within 7 days should the order become effective between December 15 and December 31 of the calendar year. EPA recommends encrypting IRS Form W-9 email correspondence.
- d. In the event that Respondent has certified in its completed IRS Form W-9 that it does not yet have a TIN but has applied for a TIN, Respondent shall provide EPA's Cincinnati Finance Division with Respondent's TIN, via email, within five (5) days of Respondent's receipt of a TIN issued by the IRS.

75. This CA/FO shall apply to and be binding upon Respondent and Respondent's agents, successors and/or assigns. Respondent shall ensure that all employees, contractors, consultants, firms, or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this CA/FO.

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

77. This CA/FO shall not be construed to create rights in, or grant any cause of action to, any third party not party to this agreement.

COMPLAINANT:

U.S. ENVIRONMENTAL PROTECTION AGENCY

8-19-2025

Date

HECTOR
VELEZ-CRUZ

Digitally signed by HECTOR
VELEZ-CRUZ
Date: 2025.08.19 14:30:04
-04'00'

Carmen R. Guerrero Pérez
Director
Caribbean Environmental Protection Division
United States Environmental Protection Agency, Region 2

RESPONDENT:

CRUZAN VIRIL LTD.

8/12/25
Date



Signature

Louis Houle
Printed Name

General Manager - Frankfort & Cruzan Operations
Title

FINAL ORDER

The Regional Judicial Officer of EPA, Region 2 concurs in the foregoing Consent Agreement in the case of **In the Matter of: Cruzan Viril LTD**, bearing **Docket Number RCRA-02-2025-7106**. Said Consent Agreement, having been duly accepted and entered into by the parties, is hereby ratified and incorporated into this Final Order, which is hereby issued pursuant to Section 3008(a) of RCRA and shall take effect when filed with the Regional Hearing Clerk of EPA, Region 2. 40 C.F.R. § 22.31(b). This Final Order is being entered pursuant to the authority of 40 C.F.R. § 22.18(b)(3).

Regional Judicial Officer
United States Environmental Protection Agency
Region 2

CERTIFICATE OF SERVICE

I certify that I have this day caused to be sent the foregoing fully executed CONSENT AGREEMENT and FINAL ORDER, bearing the above-referenced docket number, in the following manner to the respective addresses below:

By Email:

Karen Maples
Regional Hearing Clerk
U.S. Environmental Protection Agency- Region 2
290 Broadway, 17th Floor
New York, New York 10007-1866
Maples.Karen@epa.gov

By Email:

Corin Kaough
EHS Manager
Cruzan VIRIL, Ltd
3A Estate Diamond
Frederiksted, USVI 00840
corin.kaough@cruzanrum.com

Jennifer J. Cave
Stites & Harbison PLLC
400 West Market Street, Suite 1800
Louisville, KY 40202-3352
jcave@stites.com

Signed

Date (if not indicated by electronic signature):