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**U.S. EPA REGION 7
HEARING CLERK**

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BOULEVARD
LENEXA, KANSAS 66219

In the Matter of:

Estes Express Lines, Inc.

Respondent.

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) **Docket No. RCRA-07-2025-0217**
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CONSENT AGREEMENT AND FINAL ORDER

PRELIMINARY STATEMENT

The U.S. Environmental Protection Agency (EPA), Region 7 (“Complainant”) and Estes Express Lines, Inc. (“Respondent”) have agreed to a settlement of this action before the filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of 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 Code of Federal Regulations (“C.F.R.”) §§ 22.13(b) and 22.18(b)(2).

EPA’S ALLEGATIONS

Jurisdiction

1. This administrative action is being conducted pursuant to Section 3008(a) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (“RCRA”), and the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. § 6928(a), and in accordance with the Consolidated Rules of Practice.

2. This Consent Agreement and Final Order serves as notice that the EPA believes Respondent has violated RCRA Sections 3001, 3002, 3004, and 3005 of RCRA, 42 U.S.C. §§ 6921, 6922, 6924, and 6925 to develop and promulgate specific requirements to implement the waste management program. Pursuant to these authorities, the EPA promulgated the waste management regulations found at 40 C.F.R. Parts 264 and 279.

Parties

3. Complainant is the Director of the Enforcement and Compliance Assurance Division, Region 7, as duly delegated by the Administrator of EPA.

4. Respondent is Estes Express Lines, Inc., a corporation authorized to operate under the laws of Iowa.

Statutory and Regulatory Framework

5. RCRA was enacted to address the volumes of municipal and industrial solid waste generated nationwide in order to protect human health and the environment from potential hazards of waste disposal, conserve energy and natural resources, reduce the amount of waste generated, and ensure that wastes are managed in an environmentally sound manner.

6. RCRA provides guidelines for a waste management program and provides the EPA with the authorities found in Sections 3001, 3002, 3004, and 3005 of RCRA, 42 U.S.C. §§ 69221, 6922, 6924, and 6925, to develop and promulgate specific requirements to implement the waste management program. Pursuant to these authorities, EPA promulgated the waste management regulations found at 40 C.F.R. Parts 264 and 279.

7. Section 3001 of RCRA, 42 U.S.C. § 6921, requires the Administrator to develop and promulgate criteria for identifying the characteristics of hazardous waste, and for listing hazardous waste, which should be subject to the provisions of this subchapter, taking into account toxicity, persistence, and degradability in nature, potential for accumulation in tissue, and other related factors such as flammability, corrosiveness, and other hazardous characteristics.

8. Section 3002 of RCRA, 42 U.S.C. § 6922, requires the Administrator to promulgate regulations establishing such standards applicable to generators of hazardous waste identified or listed under this subchapter, as may be necessary to protect human health and the environment.

9. Section 3004 of RCRA, 42 U.S.C. § 6924, requires the Administrator to promulgate regulations establishing such performance standards, applicable to owners and operators of facilities for the treatment, storage, or disposal of hazardous waste identified or listed under this subchapter, as may be necessary to protect human health and the environment.

10. Section 3005 of RCRA, 42 U.S.C. § 6925, requires the Administrator of the EPA to promulgate regulations requiring each person owning or operating an existing facility or planning to construct a new facility for the treatment, storage, or disposal of hazardous waste identified or listed under this subchapter to have a permit.

11. 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 parts 124, 264 through 267, and 270 of this chapter, 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.

12. Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), defines “person” as an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body and shall include each department, agency, and instrumentality of the United States.

13. The regulation at 40 C.F.R. § 260.10 defines “facility” to include all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste, or for managing hazardous secondary materials prior to reclamation. A facility may

consist of several treatment, storage or disposal operational units (e.g. one or more landfills, surface impoundments, or combinations of them).

14. The regulation at 40 C.F.R. § 260.10 defines “treatment” as any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste, or so as to recover energy or material resources from the waste, or so as to render such waste non-hazardous, or less hazardous; safer to transport, store, or dispose of; or amendable for recovery, amendable for storage, or reduced in volume.

15. The regulation at 40 C.F.R. § 260.10 defines “storage” as the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.

16. The regulation at 40 C.F.R. § 260.10 defines “disposal” as the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

17. “Solid waste” is defined at 40 C.F.R. § 261.2.

18. “Hazardous waste” is defined at 40 C.F.R. § 261.3.

19. “Universal waste” is defined at 40 C.F.R. § 260.10.

20. The regulation at 40 C.F.R. § 260.10 defines “generator” as any person, by site, whose act or process produces hazardous waste identified or listed in part 261 of this chapter or whose act first causes a hazardous waste to become subject to regulation.

21. The regulation at 40 C.F.R. § 260.10 defines “small quantity generator” as a generator who generates greater than 100 kilograms but less than 1,000 kilograms of non-acute hazardous waste and less than or equal to 1 kilogram of acute hazardous waste.

22. The regulation at 40 C.F.R. § 260.10 defines “container” as any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

23. The regulation at 40 C.F.R. § 260.10 defines “EPA identification number” to mean the number assigned by EPA to each generator, transporter, and treatment, storage, or disposal facility.

24. The regulation at 40 C.F.R. § 260.10 defines “operator” to mean the person responsible for the overall operation of a facility.

25. The regulation at 40 C.F.R. § 260.10 defines “owner” to mean the person who owns a facility or part of a facility.

26. The regulation at 40 C.F.R. § 260.10 defines “incompatible waste” to mean a hazardous waste which is unsuitable for: (1) Placement in a particular device or facility because it may cause corrosion or decay of containment materials (e.g., container inner liners or tank walls); or (2) Commingling with another waste or material under uncontrolled conditions because the commingling

might produce heat or pressure, fire or explosion, violent reaction, toxic dusts, mists, fumes, or gases, or flammable fumes or gases.

27. The regulation at 40 C.F.R. § 260.10 defines “Acute hazardous waste” to mean hazardous wastes that meet the listing criteria in § 261.11(a)(2) and therefore are either listed in § 261.31 of this chapter with the assigned hazard code of (H) or are listed in § 261.33(e) of this chapter.

28. Pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), whenever on the basis of any information the EPA determines that any person has violated or is in violation of any requirement of RCRA, the EPA may issue an order assessing a civil penalty for any past or current violation and/or require immediate compliance or compliance within a specified time period.

29. 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. Part 19, increased these statutory maximum penalties to \$37,500 for violations that occurred before November 2, 2015, and 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. Based upon the facts alleged in this Consent Agreement and Final Order, and upon those factors which Complainant must consider pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), Complainant and Respondent agree to the payment of a civil penalty pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), and to take the actions required by the Final Order, for the violations of RCRA alleged in this Consent Agreement and Final Order.

General Factual Background

30. Respondent is a corporation and authorized to conduct business within the State of Iowa. Respondent is a “person” as defined in Section 1004(15) of RCRA, 42 U.S.C.

31. Respondent owns and operates a facility located at 2201 East Ovid Street, Des Moines, Iowa 50313. Respondent is a freight shipping company and a small quantity generator (“SQG”) of hazardous waste and a used oil generator.

32. On or about June 13, 2023, the EPA inspectors conducted a RCRA Compliance Evaluation Inspection (hereinafter “the inspection”) of the hazardous waste management practices at Respondent’s facility in Des Moines, Iowa. The following paragraphs in this section contain EPA’s allegations from the inspection.

33. During the inspection, the EPA inspector discovered two waste streams for which the facility had not performed hazardous waste determinations. This included an 85-gallon container of unknown waste inside of the storage trailer and a 55-gallon container which held solvent contaminated wipes co-mingled with pig mats that had been contaminated with used oil.

34. The inspector observed 20 containers of hazardous waste inside of the facility for which Respondent had not identified all applicable EPA hazardous waste codes in accordance with 40 C.F.R. § 262.11(g).

35. During the inspection, the inspector asked a facility representative about the amount of hazardous waste generated monthly at the facility. The facility representative indicated to the inspector

that he did not know the answer to that question. After further investigation, the facility was unable to provide that information as required by 40 C.F.R. § 262.13(a).

36. The EPA inspector observed two containers that were stored longer than 180 days. The inspector observed a 95-gallon hazardous waste storage container, a quarter full of flammable hazardous waste within a storage trailer at the facility. This storage container did not have an accumulation start date. A facility representative stated that the accumulation start date was July 22, 2022, which exceeded the 180-day threshold. There was also a 30-gallon hazardous waste storage container of corrosive hazardous waste within the storage trailer. The accumulation start date was January 9, 2022, which exceeded the 180-day storage threshold.

37. The inspector observed a punctured 5-gallon container of flammable hazardous waste adhesive in the northeast corner of the loading dock. There was approximately one cup of the flammable hazardous waste adhesive remaining in the 5-gallon container, according to the facility representative. At the time of the inspection, the transfer of the hazardous waste to a container in good condition had not been completed.

38. The inspector observed two boxes sitting closely together inside of the storage trailer. The box to left had a label that stated it was ammonium hydroxide with a corrosive hazard label. The box was damp and appeared to be leaking onto the pallet and onto the box next to it. The pallet was heavily stained and appeared to be wet. The box directly to the right had a label that stated it was hydrogen peroxide and that it was an oxidizer and corrosive. The hydrogen peroxide box was also wet and stained. The inspector stated that the two boxes must be separated because the oxidizer is incompatible with the ammonium hydroxide.

39. The inspector observed seven hazardous waste containers that were not labeled with the words, "Hazardous Waste."

40. The inspector observed seven hazardous waste containers that were not marked or labeled with an accumulation start date.

41. The inspector asked whether there was any water supply available for fire control available within the Over, Short, and Damaged ("OS&D") area or the storage trailer, to which the facility representative replied that there was not.

42. The inspector observed the hazardous waste and OS&D product area. This area was in the middle of the loading dock area and had co-mingled hazardous waste containers and non-hazardous damaged products and trash. A 95-gallon storage container of flammable hazardous waste adhesive that was spilled a week prior to the inspection was on a pallet and surrounded by various other damaged products and trash.

43. The inspector asked the facility representative whether the local emergency authorities had been familiarized with the potential services that may be needed should an emergency occur at the facility. The facility representative explained that he had spoken to the local fire department throughout the years, but not regarding the waste generated on site. The inspector asked the facility representative whether he had documentation showing arrangements that have been made with the local fire department or other emergency service providers, to which he responded he did not.

44. The inspector observed a telephone in the central part of the OS&D area that facility representatives indicated can be used by employees in case of emergencies. The inspector observed that this telephone did not have any of the required emergency contact information posted near it.

45. Respondent's facility has been assigned the RCRA ID Number: IAR000005769.

46. At all times relevant to this action, Respondent's facility did not have a RCRA permit or interim status.

EPA's Allegations of Violations

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

Count 1

Failure to Store Hazardous Waste in a Container

48. Complainant hereby incorporates the allegations contained in Paragraphs 30 through 46 above, as if fully set forth herein.

49. Pursuant to 40 C.F.R. § 262.11, "A person who generates a solid waste, as defined in 40 C.F.R. § 261.2, must make an accurate determination as to whether that waste is a hazardous waste in order to ensure wastes are properly managed according to applicable RCRA regulations."

50. At the time of the inspection, Respondent failed to make a hazardous waste determination on two waste streams at the facility. The inspector observed an 85-gallon container of unknown hazardous waste inside of the storage trailer for which no hazardous waste determination had been performed. The inspector also observed a 55-gallon container which held solvent contaminated wipes co-mingled with pig mats that had been contaminated with used oil for which no hazardous waste determination had been performed.

51. Respondent's failures to make hazardous waste determinations at the facility are violations of 40 C.F.R. § 262.11.

Failure to Identify all Applicable EPA Hazardous Waste Codes for Multiple Waste Streams

52. Complainant hereby incorporates the allegations contained in Paragraphs 30 through 46 above, as if fully set forth herein.

53. Pursuant to 40 C.F.R. § 262.11(g), "If the waste is determined to be hazardous, small quantity generators...must identify all applicable EPA hazardous waste numbers (EPA hazardous waste codes) in subparts C and D of part 261 of this chapter. Prior to shipping the waste off site, the generator also must mark its containers with all applicable EPA hazardous waste numbers (EPA hazardous waste codes) according to § 262.32."

54. At the time of the inspection, the inspector observed 20 containers of hazardous waste in which the facility for which Respondent had not identified all applicable EPA hazardous waste codes.

55. Respondent's failures to identify all applicable EPA hazardous waste codes for multiple waste streams are violations of 40 C.F.R. § 262.11(g).

Count 2

Failure to Determine Generator Category by Counting the Total Amount of Hazardous Waste Generated in a Calendar Month

56. Complainant hereby incorporates the allegations contained in Paragraphs 30 through 46 above, as if fully set forth herein.

57. Pursuant to 40 C.F.R. § 262.13(a), "A generator who either generates acute hazardous waste or non-acute hazardous waste in a calendar month shall determine its generator category for that month by doing the following: (1) Counting the total amount of hazardous waste generated in the calendar month; (2) Subtracting from the total any amounts of waste exempt from counting as described in paragraphs (c) and (d) of this section; and (3) Determining the resulting generator category for the hazardous waste generated using Table 1 of this section."

58. At the time of the inspection, a facility representative informed EPA inspectors that the facility did not count the amount of hazardous waste generated monthly at the facility. The inspector noted that wastes had not been logged for more than one and a half years within the waste inventory log, and the facility had failed to determine their generator category by not counting the amount of hazardous waste generated monthly at the facility.

59. Respondent's failures to count the amount of hazardous waste generated monthly are violations of 40 C.F.R. § 262.13(a).

Storing Hazardous Waste Onsite for More than the 180-day Accumulation Time Limit

60. Complainant hereby incorporates the allegations contained in Paragraphs 30 through 46 above, as if fully set forth herein.

61. The regulation at 40 C.F.R. § 262.16 states that a small quantity generator may accumulate hazardous waste on site for no more than 180 days without a permit or interim status, and without complying with the requirements of parts 124, 264 through 267, and 270 of 40 C.F.R. Chapter I, or the notification requirements of section 3010 of RCRA for treatment, storage, and disposal facilities, provided all the conditions for exemption set forth at 40 C.F.R. § 262.16 are met. If a generator fails to comply with any of these conditions, the generator is not allowed to accumulate hazardous waste at its facility for any length of time. Respondent failed to comply with the following conditions:

Accumulation Beyond 180 Days

62. Pursuant to 40 C.F.R. § 262.16(b), an SQG may accumulate hazardous waste on site for no more than 180 days, unless in compliance with the conditions for exemption for longer accumulation in 40 C.F.R. §§ 262.16(c) through (e).

63. At all times relevant to this action, the conditions for exemption for longer accumulation in 40 C.F.R. §§ 262.16(c) through (e) were not present.

64. At the time of the inspection, the EPA inspector observed two containers that were stored longer than 180 days. The inspector observed a 95-gallon hazardous waste storage container, a quarter full of flammable hazardous waste within a storage trailer at the facility. This storage container did not have an accumulation start date. There was also a 30-gallon hazardous waste storage container of corrosive hazardous waste within the storage trailer. The accumulation start date was January 9, 2022, which exceeded the 180-day storage threshold at the time of the inspection.

65. Respondent's accumulation of hazardous waste past the 180-day limit is a violation of 40 C.F.R. § 262.16(b).

Failure to Immediately Transfer Hazardous Waste to a Container in Good Condition

66. 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."

67. At the time of the inspection, the inspector observed a punctured 5-gallon container of flammable hazardous waste adhesive in the northeast corner of the loading dock. There was approximately one cup of the flammable hazardous waste adhesive remaining in the 5-gallon container, according to the facility representative. At the time of the inspection, the remaining hazardous waste had not been transferred to a container in good condition.

68. Respondent's failure to immediately transfer hazardous waste to a container in good condition is a violation of 40 C.F.R. § 262.16(b)(2)(i).

Failure to Separate Incompatible Wastes

69. Pursuant to 40 C.F.R. § 262.16(b)(2)(v)(C), "a container accumulating hazardous waste that is incompatible with any waste or other materials accumulated or stored nearby in other containers, piles, open tanks, or surface impoundments must be separated from the other materials or protected from them by means of a dike, berm, wall, or other device."

70. At the time of the inspection, the inspector observed two boxes sitting closely together inside of the storage trailer. The box to left had a label that stated it was ammonium hydroxide with a corrosive hazard label. The box was damp and appeared to be leaking onto the pallet and onto the box next to it. The pallet was heavily stained and appeared to be wet. The box directly to the right had a label that stated it was hydrogen peroxide and that it was an oxidizer and corrosive. The hydrogen peroxide box was also wet and stained. The inspector stated that the two boxes must be separated because the oxidizer is incompatible with the ammonium hydroxide.

71. Respondent's failure to separate incompatible wastes is a violation of 40 C.F.R. § 262.16(b)(2)(v)(C).

Failure to Label Containers with the Words "Hazardous Waste"

72. 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.”

73. At the time of the inspection, the inspector observed seven hazardous waste containers that were not labeled with the words, “Hazardous Waste.”

74. Respondent’s failure to label these containers with the words “Hazardous Waste” are violations of 40 C.F.R. § 262.16(b)(6)(i)(A).

Failure to Mark Multiple Containers with an Accumulation Start Date

75. Pursuant to 40 C.F.R. § 262.16(b)(6)(i)(C), a small quantity generator must mark or label its containers with the date upon which each period of accumulation begins clearly visible for inspection on each container.

76. At the time of the inspection, the inspector observed seven hazardous waste containers that were not marked or labeled with an accumulation start date.

77. Respondent’s failure to label containers with an accumulation start date is a violation of 40 C.F.R. § 262.16(b)(6)(i)(C).

Failure to Operate Facility to Minimize the Possibility of Explosion, Fire or Release of Hazardous Waste of Hazardous Waste Constituents

78. 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.

79. At the time of the inspection, the inspector observed two boxes sitting closely together inside of the storage trailer. The box to left had a label that stated it was ammonium hydroxide with a corrosive hazard label. The box was damp and appeared to be leaking onto the pallet and onto the box next to it. The pallet was heavily stained and appeared to be wet. The box directly to the right had a label that stated it was hydrogen peroxide and that it was an oxidizer and corrosive. The hydrogen peroxide box was also wet and stained. The inspector stated that the two boxes must be separated because the oxidizer is incompatible with the ammonium hydroxide. Because the boxes of ammonium hydroxide and hydrogen peroxide, which are incompatible with each other, were stored next to each other and were leaking, the facility failed to operate the facility to minimize the possibility of explosion, fire, or release of hazardous waste. The RCRA CEI Report indicated that, “the ammonium hydroxide was removed, and the oxidizer waste was contained within a plastic bag awaiting to be put into an appropriate container.”

80. Respondent’s failure to operate facility to minimize the possibility of explosion, fire, or release of hazardous waste or hazardous waste constituents is a violation of 40 C.F.R. § 262.16(b)(8)(i).

Failure to Have Water at Adequate Volume and Pressure

81. Pursuant to 40 C.F.R. § 262.16(b)(8)(ii)(D), all areas where hazardous waste is either generated or accumulated must be equipped with the items in paragraphs (b)(8)(ii)(A) through (D) of this section (unless none of the hazards posed by waste handled at the facility could require a particular kind

of equipment specified below or the actual waste generation or accumulation area does not lend itself for safety reasons to have a particular kind of equipment specified below). A small quantity generator may determine the most appropriate locations to locate equipment necessary to prepare for and respond to emergencies. (D) Water at adequate volume and pressure to supply water hose streams, or foam producing equipment, or automatic sprinklers, or water spray systems.

82. At the time of the inspection, the inspector asked whether there was any water supply available for fire control available within the OS&D area or the storage trailer, to which the facility representative replied that there was not.

83. Respondent's failure to have water supply available for fire control in areas where hazardous waste is generated or accumulated is a violation of 40 C.F.R. § 262.16(b)(8)(ii)(D).

Failure to Make Arrangements with Local Emergency Authorities

84. Pursuant to 40 C.F.R. § 262.16(b)(8)(vi)(A), the small quantity generator must attempt to make arrangements with the local police department, fire department, other emergency response teams, emergency response contractors, equipment suppliers and local hospitals, taking into account the types and quantities of hazardous wastes handled at the facility.

85. At the time of the inspection, the inspector asked the facility representative whether the local emergency authorities had been familiarized with the potential services that may be needed should an emergency occur at the facility. The facility representative explained that he had spoken to the local fire department throughout the years, but not regarding the waste generated on site. The RCRA inspector asked the facility representative whether he had documentation showing arrangements that have been made with the local fire department or other emergency service providers, to which he responded he did not.

86. Respondent's failure to make arrangements with local emergency authorities is a violation of 40 C.F.R. § 262.16(b)(8)(vi)(A).

Failure to Post Emergency Contact Information Near the Facility Phone

87. Pursuant to 40 C.F.R. § 262.16(b)(9)(ii), a small quantity generator must comply with the following conditions for those areas of the generator facility where hazardous waste is generated and accumulated: 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.

88. The inspector observed a telephone in the central part of the OS&D area that facility representatives indicated can be used by employees in case of emergencies. The inspector observed that this telephone did not have any of the required emergency contact information posted near it.

89. Respondent's failure to make arrangements with local emergency authorities is a violation of 40 C.F.R. § 262.16(b)(9)(ii).

CONSENT AGREEMENT

90. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:

- (a) admits the jurisdictional allegations set forth herein;
- (b) neither admits nor denies the specific factual allegations stated herein;
- (c) consents to the assessment of a civil penalty, as stated herein;
- (d) consents to the issuance of any specified compliance or corrective action order;
- (e) consents to any conditions specified herein;
- (f) consents to any stated Permit Action;
- (g) waives any right to contest the allegations set forth herein; and
- (h) waives its rights to appeal the Final Order accompanying this Consent Agreement

91. Respondent consents to the issuance of this Consent Agreement and Final Order and consents for the purposes of settlement to the payment of the civil penalty specified herein.

92. Respondent and the EPA agree to the terms of this Consent Agreement and Final Order and Respondent agrees to comply with the terms specified herein.

93. Respondent and the EPA agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorneys' fees.

94. Respondent consents to receiving an electronic copy of the filed Consent Agreement and Final Order at the following email addresses: curtis.carr@estes-express.com and hztzsche@bairdholm.com

Penalty Payment

95. Respondent agrees that, in settlement of the claims alleged herein, Respondent shall pay a civil penalty of **\$75,000** as set forth below.

96. Respondent shall pay the penalty within thirty (30) days of the effective date of the Final Order. Such payment shall identify Respondent by name and docket number and shall be by certified or cashier's check made payable to the "United States Treasury" and sent to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979078
St. Louis, Missouri 63197-9000

or by alternate payment method described at <http://www.epa.gov/financial/makepayment>.

97. A copy of the check or other information confirming payment shall simultaneously be emailed to the following:

Regional Hearing Clerk
R7_Hearing_Clerk_Filings@epa.gov; and

Adam Hilbert, Attorney
Hilbert.adam@epa.gov.

98. Respondent understands that their failure to timely pay any portion of the civil penalty may result in the commencement of a civil action in Federal District Court to recover the full remaining balance, along with penalties and accumulated interest. In such case, interest shall begin to accrue on a civil or stipulated penalty from the date of delinquency until such civil or stipulated penalty and any accrued interest are paid in full. 31 C.F.R. § 901.9. Interest will be assessed at a rate of the United States Treasury Tax and loan rates in accordance with 31 U.S.C. § 3717. Additionally, a charge will be assessed to cover the costs of debt collection including processing and handling costs, and a non-payment penalty charge of six (6) percent per year compounded annually will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. 31 U.S.C. § 3717(e)(2).

99. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, the EPA is required to send to the Internal Revenue Service (“IRS”) annually, a completed IRS Form 1098-F (“Fines, Penalties, and Other Amounts”) with respect to any court order or settlement agreement (including administrative settlements) that require a payor to pay an aggregate amount that the 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.” The 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). 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, EPA herein requires, and Respondent herein agrees, that:

- 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 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 sherrer.dana@epa.gov within 30 days after the Final Order ratifying this Agreement is filed, and EPA recommends encrypting IRS Form W-9 email correspondence; and
- 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.

Effect of Settlement and Reservation of Rights

100. Full payment of the penalty proposed in this Consent Agreement shall only resolve Respondent's liability for federal civil penalties for the violations alleged herein. Complainant reserves the right to take any enforcement action with respect to any other violations of RCRA or any other applicable law.

101. The effect of settlement described in the immediately preceding paragraph is conditioned upon the accuracy of Respondent's representations to the EPA, as memorialized in paragraph directly below.

102. Respondent certifies by the signing of this Consent Agreement and Final Order that, to the best of Respondent's knowledge, it is presently in compliance with all requirements of RCRA, 42 U.S.C. § 6901 et. seq., its implementing regulations, and any permit issued pursuant to RCRA.

103. Full payment of the penalty proposed in this Consent Agreement 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 Consent Agreement and Final Order does not waive, extinguish, or otherwise affect Respondent's obligation to comply with all applicable provisions of RCRA, and regulations promulgated thereunder.

104. Notwithstanding any other provision of this Consent Agreement and Final Order, the EPA reserves the right to enforce the terms and conditions of this Consent Agreement and Final Order 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 Seventy Thousand Seven Hundred Fifty-Two Dollars (\$70,752) per day, per violation, pursuant to Section 3008(c) of RCRA, for each day of non-compliance with the terms of this Consent Agreement and Final Order, or to seek any other remedy allowed by law.

105. Except as expressly provided herein, nothing in this Consent Agreement and Final Order shall constitute or be construed as a release from any claim (civil or criminal), 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 Respondent's facility.

106. Notwithstanding any other provisions of the Consent Agreement and Final Order, an enforcement action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should the EPA find that the handling, storage, treatment, transportation, or disposal of solid waste or hazardous waste at Respondent's facility may present an imminent and substantial endangerment to human health and the environment.

107. Nothing contained in this Consent Agreement and Final Order shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, state, and local environmental statutes and regulations and applicable permits.

General Provisions

108. By signing this Consent Agreement, the undersigned representative of Respondent certifies that they are fully authorized to execute and enter into the terms and conditions of this Consent Agreement and has the legal capacity to bind the party they represent to this Consent Agreement.

109. 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 Consent Agreement and Final Order shall be effective upon filing by the Regional Hearing Clerk for EPA, Region 7. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

110. The penalty specified herein shall represent civil penalties assessed by EPA and, unless otherwise permitted by law, shall not be deductible for purposes of Federal, State, and local taxes.

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

112. The headings in this Consent Agreement and Final Order are for convenience of reference only and shall not affect interpretation of this Consent Agreement and Final Order.

113. 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.

COMPLAINANT:

U.S. ENVIRONMENTAL PROTECTION AGENCY

David Cozad
Director
Enforcement and Compliance Assurance Division

Date

Adam Hilbert
Office of Regional Counsel

Date

RESPONDENT:

Estes Express Lines, Inc.

Curtis E Carr
Signature

8/27/25
Date

CURTIS E. CARR
Printed Name

VP, SAFETY & RISK MANAGEMENT
Title

FINAL ORDER

Pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22, the foregoing Consent Agreement resolving this matter is hereby ratified and incorporated by reference into this Final Order.

Respondent is ORDERED to comply with all of the terms of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(b), the effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

IT IS SO ORDERED.

Karina Borromeo
Regional Judicial Officer

Date

CERTIFICATE OF SERVICE
(For EPA use only.)

I certify that that a true and correct copy of the foregoing Consent Agreement and Final Order in the matter of Estes Express Lines, Inc., EPA Docket No. RCRA-07-2025-0217, was sent this day in the following manner to the addressees:

Copy via Email to Complainant:

Adam Hilbert
Office of Regional Counsel
hilbert.adam@epa.gov

Kevin Snowden
Enforcement and Compliance Assurance Division
Snowden.kevin@epa.gov

Carrie Venerable | New Solutions
Office of Regional Counsel
venerable.carrie@epa.gov

Copy via Email to Respondent:

Curtis E. Carr
Estes Express Lines
Curtis.carr@estes-express.com

Hannes Zetzsche
Baird Holm
hzetzsche@bairdholm.com

Dated this _____ day of _____, _____.

Signed