

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

REGIONAL HEARING CLERK
EPA REGION 6

IN THE MATTER OF	§	
	§	
E3 OMI, LLC	§	Docket No. RCRA-06-2026-0914
	§	
	§	
RESPONDENT	§	

CONSENT AGREEMENT AND FINAL ORDER

I. PRELIMINARY STATEMENT

1. This is an administrative action commenced and concluded under Section 3008(a) of the Resource Conservation and Recovery Act ("RCRA" or the "Act"), 42 U.S.C. § 6928(a), and §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules") as codified at 40 C.F.R. Part 22.

2. The Administrator of the U.S. Environmental Protection Agency has delegated enforcement authority under Section 3008 of RCRA, 42 U.S.C. § 6928, to the Regional Administrator of EPA Region 6, who in turn has delegated this authority to the Director of the Enforcement and Compliance Assurance Division, EPA Region 6 ("EPA" or "Complainant").

3. E3 OMI, LLC ("E3" or "Respondent") is a limited liability company doing business in the States of Texas, Louisiana, and Arkansas.

4. Notice of this action has been given to the States of Texas, Louisiana, and Arkansas under Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

5. Complainant and Respondent, having agreed that settlement of this action is in the public interest, consent to the entry of this Consent Agreement along with the corresponding Final Order hereinafter known together as the “CAFO” without the adjudication of any issues of law or fact herein.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

II. JURISDICTION

7. This CAFO is entered into under Section 3008(a) of RCRA, as amended, 42 U.S.C. § 6928(a), and 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).

8. Jurisdiction for this action is conferred upon EPA by Sections 3006 and 3008 of RCRA, 42 U.S.C. §§ 6926 and 6928.

9. The Regional Judicial Officer is authorized to ratify this CAFO which memorializes a settlement between Complainant and Respondent. 40 C.F.R. §§ 22.4(b) and 22.18(b).

10. The issuance of this CAFO simultaneously commences and concludes this proceeding. 40 C.F.R. § 22.13(b).

III. STATUTORY AND REGULATORY BACKGROUND

11. Federal regulation of hazardous waste is primarily based on RCRA, enacted on October 21, 1976, to amend the Solid Waste Disposal Act (“SWDA”), and the Hazardous and Solid Waste Amendments (“HSWA”) enacted by Congress in 1984 to further amend SWDA. RCRA establishes a “cradle-to-grave” program to be administered by the Administrator of EPA and authorized states for regulating the generation, transportation, treatment, storage, and disposal of hazardous waste. *See* 42 U.S.C. § 6901 *et seq.*

12. RCRA's Subchapter III (RCRA §§ 3001-3023, 42 U.S.C. §§ 6921-6940, known as "Subtitle C") required EPA to promulgate regulations establishing performance standards applicable to facilities that generate, transport, treat, store, or dispose of hazardous wastes. Together, RCRA Subtitle C and its implementing regulations, set forth at 40 C.F.R. Parts 260 – 279, comprise EPA's RCRA hazardous waste program.

13. 40 C.F.R. Parts 260 through 279, govern generators and transporters of hazardous waste and facilities that treat, store, and dispose of hazardous waste, pursuant to Sections 3002, 3003, and 3004 of RCRA, 42 U.S.C. §§ 6922, 6923, and 6924. These regulations prohibit land disposal of certain hazardous wastes and provide detailed requirements governing the activities of those who generate hazardous waste and those who are lawfully permitted to store, treat, and dispose of hazardous waste.

14. Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), directed EPA to promulgate regulations requiring each person owning or operating a hazardous waste treatment, storage, or disposal facility to have a RCRA permit; this section of RCRA further provides in relevant part that the treatment, storage, or disposal of hazardous waste is prohibited except in accordance with a RCRA permit.

15. Pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, the Administrator of EPA may authorize a state to administer its own hazardous waste program in lieu of the federal program when the Administrator deems the state program to be equivalent to and consistent with the federal program. Any violation of regulations promulgated pursuant to Subtitle C (Sections 3001-3023 of RCRA, 42 U.S.C. §§ 6921-6939e) or any state provision authorized pursuant to Section 3006 of RCRA, constitutes a violation of RCRA, subject to the assessment of

civil penalties¹ and issuance of compliance orders as provided in Section 3008 of RCRA, 42 U.S.C. § 6928.

16. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), EPA granted the State of Texas final authorization to administer a state hazardous waste program in lieu of the federal RCRA program.²

17. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), EPA may enforce the federally approved State of Texas hazardous waste program. EPA also retains jurisdiction and authority to initiate an independent enforcement action, pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

¹ The Administrator may assess an inflation-adjusted civil penalty per day for each violation of Subtitle C of RCRA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and 40 C.F.R. § 19.4.

² On December 26, 1984, the State of Texas received final authorization for its base Hazardous Waste Management Program (49 Fed. Reg. 48300). Subsequent revisions have been made to the Texas Hazardous Waste Program and authorized by EPA. Except as otherwise provided, all citations found within this CAFO are to the “EPA-Approved Texas Statutory and Regulatory Requirements Applicable to the Hazardous Waste Management Program” dated December 2015, incorporated by reference under 40 C.F.R. § 272.2201(c)(1)(i) effective on April 10, 2020. (85 Fed. Reg. 20187, 20190; 40 C.F.R. § 272.2201: Texas State-Administered Program: Final Authorization). References and citations to the “EPA-Approved Texas Statutory and Regulatory Requirements Applicable to the Hazardous Waste Management Program” may vary slightly from the State of Texas’s published version. For ease of reference, the corresponding C.F.R. citations will follow in brackets.

On January 24, 1985, the State of Louisiana received final authorization for its base Hazardous Waste Management Program (50 Fed. Reg. 3348). Subsequent revisions have been made to the Louisiana Hazardous Waste Program and authorized by EPA. Except as otherwise provided, all citations found within this CAFO are to the “EPA-Approved Louisiana Statutory and Regulatory Requirements Applicable to the Hazardous Waste Management Program” dated November 2015, incorporated by reference under 40 C.F.R. § 272.951(c)(1)(i) effective on December 26, 2018. (83 Fed. Reg. 66143; 40 C.F.R. § 272.951: Louisiana State-Administered Program: Final Authorization). References and citations to the “EPA-Approved Louisiana Statutory and Regulatory Requirements Applicable to the Hazardous Waste Management Program” may vary slightly from the State of Louisiana’s published version. For ease of reference, the corresponding C.F.R. citations will follow in brackets.

18. The Texas Commission on Environmental Quality ("TCEQ") codified the applicable RCRA authorized program at Texas Administrative Code ("Tex. Admin. Code"), Title 30, [40 C.F.R. Part 262, 263, 265, and/or 270].

19. The Louisiana Department of Environmental Quality ("LDEQ") has promulgated rules and regulations applicable to solid and hazardous waste generators, to transporters, to owner/operators of hazardous waste facilities, and to land disposal of solid and hazardous at Title 33 of the Louisiana Administrative Code ("LAC"), Part V, Chapters 1 through 51 [40 C.F.R. Part 262, 263, 265, and/or 270].

20. In connection with EPA's delegation of RCRA authority to the State of Arkansas, the Arkansas Pollution Control and Ecology Commission has promulgated Rule 23 ("APC&EC Rule 23"). In addition to applicable federal regulations, APC&EC Rule 23 has been cited independently in this CAFO.³

Definitions

21. 30 Tex. Admin. Code § 335.1(138), [40 C.F.R. § 261.2], defines a "solid waste" as any discarded material that is not otherwise excluded under § 335.1(138)(A)(i-iv), [40 C.F.R. § 261.4(a)], or that is not excluded by variance. A discarded material is any material which is abandoned, recycled, inherently waste-like, or a military munition. Materials are solid waste, as

³ On January 25, 1985, the State of Arkansas received final authorization for its base Hazardous Waste Management Program (50 FR 1513). Subsequent revisions have been made to the Arkansas Hazardous Waste Program and authorized by the EPA. Except as otherwise provided, all citations found within this order are to the "EPA-Approved Arkansas Statutory and Regulatory Requirements Applicable to the Hazardous Waste Management Program" dated October 2016, incorporated by reference under 40 C.F.R. § 272.201(c)(1)(i) effective on November 13, 2017. 82 Fed. Reg. 43189 (September 13, 2017); 40 C.F.R. 272.201: Arkansas State-Administered Program: Final Authorization. References and citations to the "EPA-Approved Arkansas Statutory and Regulatory Requirements Applicable to the Hazardous Waste Management Program" may vary slightly from the State of Arkansas' published version. The corresponding C.F.R. citations are also provided.

defined in 30 Tex. Admin. Code § 335.1(138), [40 C.F.R. § 261.2(b)], if they are abandoned by being disposed of, burned or incinerated, stored, or treated (but not recycled) before, or in lieu of, being abandoned by being disposed of, burned, or incinerated.

22. LAC 33:V.109, [40 C.F.R. § 261.2], defines a "solid waste" as any discarded material that is not otherwise excluded under LAC 33:V.105.D or that is not excluded by a variance granted under LAC 33:V.105.O, [40 C.F.R. § 261.4(a)]. A discarded material is any material which is abandoned, recycled, inherently waste-like, or a military munition. Materials are solid waste, as defined in LAC 33:V.109.2, [40 C.F.R. § 261.2(b)], if they are abandoned by being disposed of, burned or incinerated, or accumulated, stored, or treated (but not recycled) before, or in lieu of, being abandoned by being disposed of, burned, or incinerated.

23. APC&EC Rule 23 § 261.2, [40 C.F.R. § 261.2], defines a "solid waste" as any discarded material that is not otherwise excluded under APC&EC Rule 23 § 261.4(a), [40 C.F.R. § 261.4(a)], or that is not excluded by variance. A discarded material is any material which is abandoned, recycled, inherently waste-like, or a military munitions. Materials are solid waste, as defined in APC&EC Rule 23 § 261.2, [40 C.F.R. § 261.2], if they are abandoned by being disposed of, burned or incinerated, or accumulated, stored, or treated (but not recycled) before, or in lieu of, being abandoned by being disposed of, burned, or incinerated.

24. 30 Tex. Admin. Code § 335.1(69) defines a "hazardous waste" as any waste identified or listed as hazardous waste by the Administrator of EPA in accordance with the federal SWDA, as amended by RCRA, 42 U.S.C. §§ 6901 et seq. EPA defines a "hazardous waste" as a solid waste that is not excluded from regulation, and it exhibits any of the characteristics of

hazardous waste identified in 40 C.F.R. Part 261, Subpart C, or it is listed in Part 261, Subpart D, [40 C.F.R. § 261.3].

25. LAC 33:V.109 defines a "hazardous waste" as any waste listed in LAC 33:V.4901 and has not been excluded from the lists in LAC 33:V.4901, regulation as a hazardous waste under LAC 33:V.105.D, by EPA or the administrative authority and exhibits any of the characteristics of hazardous waste identified in LAC 33:V.4903.

26. APC&EC Rule 23 § 261.3, [40 C.F.R. § 261.3] defines a "hazardous waste" as a solid waste that is not excluded from regulation as a hazardous waste under § 261.4(b), and meets any of the criteria in APC&EC Rule 23 § 261.3(a)(2).

27. Characteristic hazardous wastes are assigned "D" codes in 40 C.F.R. Part 261, Subpart C, depending on the specific hazardous characteristic that the waste exhibits.

28. Listed wastes are assigned with "F", "K", "P", and "U" codes in 40 C.F.R. Part 261, Subpart D, depending on the specific waste generated from a non-specific source, a specific source, or discarded commercial chemical products, off-specification species, container residues and spill residues therefrom.

29. Pursuant to 30 Tex. Admin. Code § 335.1(65), [40 C.F.R. § 260.10], a "generator" is any person whose act first causes a hazardous waste to become subject to regulation.

30. Pursuant to LAC 33:V.109, [40 C.F.R. § 260.10], a "generator" is any person, by site, whose act or process produces hazardous waste identified or listed, or whose act first causes a hazardous waste to become subject to regulation.

31. Pursuant to APC&EC Rule 23 § 260.10, [40 C.F.R. § 260.10], a "generator" means any person, by site, whose act or process produces hazardous waste identified or listed in

Section 261 of the regulation or whose act first causes a hazardous waste to become subject to regulation.

32. Pursuant to 30 Tex. Admin. Code § 335.1(155), [40 C.F.R. § 260.10], a “transporter” is any person who conveys or transports municipal hazardous waste or industrial solid waste by truck, ship, pipeline, or other means.

33. Pursuant to LAC 33:V.109, [40 C.F.R. § 260.10], a “transporter” is a person engaged in the off-site transportation of hazardous waste by air, rail, highway, or water.

34. Pursuant to APC&EC Rule 23 § 260.10, [40 C.F.R. § 260.10], a “transporter” is any person who conveys or transports municipal hazardous waste or industrial solid waste by truck, ship, pipeline, or other means.

35. 30 Tex. Admin. Code Chapter 335, [40 C.F.R. Parts 262, 263, 264 and/or 265], applies to owners and operators of facilities that treat, store, transfer, and/or dispose of hazardous waste.

36. LAC 33 Chapters 10 and 15, [40 C.F.R. Parts 262, 263, 264 and/or 265], applies to owners and operators of facilities that treat, store, transfer and/or dispose of hazardous waste.

37. APC&EC Rule 23 §§ 262, 263, 264 and/or 265, [40 C.F.R. Parts 262, 263, 264 and/or 265], applies to owners and operators of facilities that treat, store, transfer and/or dispose of hazardous waste.

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

38. Respondent is a registered hazardous waste transporter and spill response company with facilities located at:

a. 6105 John Harden Drive, Cabot, AR 72023 (the “Cabot Facility”) APC&EC Rule 23 § 260.10, [40 C.F.R. § 260.10].

b. 2403 Grimmer Drive, Shreveport, LA 71107 (the “Shreveport Facility”). LAC 33:V.109, [40 C.F.R. § 260.10].

c. 3197 Main Street, La Marque, TX 77568 (the “La Marque Facility”). LAC 33:V.109, [40 C.F.R. § 260.10].

d. 7774 Veal Station Rd in Azle, TX 76020 (the “Azle Facility”). 30 Tex. Admin. Code § 3.2(25), [40 C.F.R. § 260.10].

e. 1717 West 13th Street, Deer Park, TX 77536 (the “Deer Park Facility”). 30 Tex. Admin. Code § 3.2(25), [40 C.F.R. § 260.10].

39. Respondent is a "person" within the meaning of Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), 30 Tex. Admin. Code § 3.2(25), LAC 33:V.109, APC&EC Rule 23 § 260.10, [40 C.F.R. § 260.10].

40. Each facility listed in Paragraph 38 of this Order (collectively “TX, LA, and AR Facilities”) is a “facility” within the meaning of 30 Tex. Admin. Code § 335.1(59), LAC 33:V.109, APC&EC Rule 23 § 260.10, [40 C.F.R. § 260.10].

41. EPA conducted a Compliance Evaluation Inspection (CEI) under 3007 of the Act at the Port of Houston from December 4 – 8, 2023. As part of the Port of Houston CEI, EPA inspected E3 OMI’s Deer Park Facility on December 5, 2023 (the “Deer Park Inspection”).

42. EPA conducted a CEI at the Azle Facility on September 4, 2024 (the “Azle Inspection”).

43. As a transporter of hazardous waste, Respondent is subject to Sections 3002, 3003 and 3010 of RCRA, 42 U.S.C. §§ 6922, 6923, and 6930, and the regulations set forth in 30 Tex. Admin. Code Chapter 335, Subchapters C, D and F, Title 33 of LAC Part V, Chapters 1 through 51, and APC&EC Rule 23 Parts 262, 263, 265, and/or 270, [40 C.F.R. Parts 262, 263, 265, and/or 270].

V. ALLEGED VIOLATIONS

44. The facts stated in the EPA Findings of Fact and Conclusions of Law above are herein incorporated.

45. Complainant hereby states and alleges that Respondent has violated RCRA and federal and state regulations promulgated thereunder, as stated below.

Count 1. Transportation of Hazardous Waste without A Manifest (Azle Facility)

46. Pursuant to 30 Tex. Admin. Code § 335.11(a), [40 C.F.R. 263.20(a)], a transporter may not accept hazardous waste for transport unless it is accompanied by a signed hazardous waste manifest.

47. Based on the CEI of the Azle Facility and its review of Respondent's records, EPA determined that on August 12, 2024, Respondent transported waste described by the following waste codes: D001: Characteristic of Ignitability; D002: Characteristic of Corrosivity. The waste streams identified above are "hazardous waste" as defined in 30 Tex. Admin. Code § 335.1(69), [40 C.F.R. § 261.21].

48. EPA determined the Azle Facility's shipment of hazardous waste was not accompanied by a hazardous waste manifest.

49. Therefore, Respondent violated the prohibition of shipment of hazardous waste without an accompanying hazardous waste manifest, in violation of 30 Tex. Admin. Code § 335.11(a)(1), [40 C.F.R. 263.20(a)(1)].

Count 2. Operation of a Hazardous Waste Storage Facility without a Permit or Exemption (TX, LA, and AR Facilities)

50. Pursuant to 30 Tex. Admin. Code § 335.94(a), LAC 33:V.1305.A, APC&EC Rule 23 § 263.12(a), [40 C.F.R. 263.12(a)], a transporter may store manifested shipments of hazardous waste in containers at a transfer facility without a permit on the condition it does so for 10 days or less and subject to the independent requirements of 30 Tex. Admin. Code § 335.65, LAC 33:V.1109.A, APC&EC Rule 23 § 262.30, [40 C.F.R. § 262.30]. Failure to meet these conditions for permit exemption subjects a facility to the permitting requirements of 30 Tex. Admin. Code § 335.2, LAC 33:V. Chapter 3, and APC&EC Rule 23 Chapter 270, [40 C.F.R. Chapter 270].

51. Based on the inspection of the Deer Park Facility and EPA's review of Respondent's records regarding the TX, LA, and AR Facilities, EPA determined that Respondent stored hazardous waste for greater than 10 days at the TX, LA, and AR Facilities. The TX, LA, and AR Facilities did not have a hazardous waste permit.

52. Because Respondent stored hazardous waste for greater than 10 days at the TX, LA, and AR Facilities without a hazardous waste permit, it violated the permitting requirements for hazardous waste storage pursuant to 30 Tex. Admin. Code § 335.6, LAC 33:V.305, and APC&EC Rule 23 § 270.1, [40 C.F.R. § 270.1].

VI. CONSENT AGREEMENT AND CIVIL PENALTY

General

53. 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 in this CAFO.

54. By signing 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 this CAFO.

55. Respondent consents to the issuance of this CAFO and consents for the purposes of settlement to the payment of the civil penalty specified herein.

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

Penalty Assessment and Collection

57. Pursuant to the authority granted in Section 3008 of RCRA, 42 U.S.C. § 6928, and upon consideration of the entire record herein, including the above referenced Findings of Fact and Conclusions of Law, which are hereby adopted and made a part hereof, upon the seriousness of the alleged violations, and Respondent's good faith efforts to comply with the applicable regulations, it is ordered that Respondent be assessed a civil penalty of \$136,048 (the "EPA Penalty").

58. Respondent agrees to pay the EPA Penalty within 30 days after the Effective Date of this CAFO.

59. Respondent shall pay the EPA 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>. In accordance with the March 25, 2025 Executive Order on *Modernizing Payments To and From America's Bank Account*, Respondent shall pay using one of the electronic payments and will not pay with a paper check.

60. When making a payment, Respondent shall:

61. Identify every payment with Respondent's name and the docket number of this CAFO, Docket No. RCRA-06-2026-0914.

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

John Penland
U.S. EPA Region 6
Penland.John@epa.gov

Region 6 Hearing Clerk
U.S. EPA Region 6
Vaughn.Lorena@epa.gov

and

U.S. Environmental Protection Agency
Cincinnati Finance Center
Via electronic mail to:
CINWD_AcctsReceivable@epa.gov

“Proof of payment” means, as applicable, 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.

63. 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 EPA Penalty per this CAFO, EPA is authorized to recover, in addition to the amount of the unpaid EPA Penalty, the following amounts.

64. Interest. Interest begins to accrue from the Effective Date of this CAFO. If the EPA Penalty is paid in full within 30 days, interest accrued is waived. If the EPA Penalty is not paid in full within 30 days, interest will continue to accrue until any unpaid portion of the EPA 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 “large corporate” underpayment rate, any lower rate would fail to provide Respondent adequate incentive for timely payment.

a. 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 EPA Penalty in accordance with this CAFO, EPA will assess a charge to cover the costs of

handling any unpaid amounts for the first 30-day period after the Effective Date. Additional handling charges will be assessed every 30 days, or any portion thereof, until the unpaid portion of the EPA Penalty as well as any accrued interest, penalties, and other charges are paid in full.

b. 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 EPA Penalty, interest, penalties, and other charges, that remain delinquent more than 90 days. Any such amounts will accrue from the Effective Date.

65. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the EPA Penalty, interest, or other charges and penalties per this CAFO, 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.

66. 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 EPA Penalty amount.

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

Conditions of Settlement

68. Pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), Respondent hereby agrees to take the following actions, and within 30 days of the Effective Date of this CAFO, Respondent shall provide in writing the following:

a. Respondent shall certify that the TX, LA, and AR Facilities have assessed all of their solid waste streams at the TX, LA, and AR Facilities to determine the accurate waste codes and have developed and implemented standard operating procedures ("SOPs") to ensure that Respondent is operating the TX, LA, and AR Facilities in compliance with RCRA and the regulations promulgated thereunder, including, but not limited to, procedures for: (a) making hazardous waste determinations; (b) managing hazardous wastes; (c) reporting, transporting, and disposing of hazardous waste; (d) preparing its manifests; and (e) meeting the requirements of the land disposal requirements.

b. Respondent shall certify that it has accurately and adequately complied with its RCRA Section 3010 notification for the TX, LA, and AR Facilities and within the prescribed time period.

c. Respondent shall provide, with its certification, a copy of Respondent's SOPs as described above.

d. Respondent shall certify the cost of implementation of injunctive relief.

69. In all instances in which this CAFO requires written submission to EPA, the submittal made by Respondent shall be signed by an owner or officer of the TX, LA, and AR Facilities and shall include the following certification:

"I certify under the penalty of law that this document and all of its attachments were prepared by me or under my direct supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated 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."

Copies of all documents required by this CAFO shall be sent electronically by email to:

John Penland
U.S. EPA Region 6
Penland.John@epa.gov

Additional Terms of Settlement

70. The provisions of this CAFO shall apply to and be binding on Respondent, Respondent's officers, directors, partners, agents, employees, contractors, successors and assigns. Action or inaction of any persons, firms, contractors, employees, agents, or corporations acting under, through, or for Respondent shall not excuse any failure of

Respondent to fully perform its obligations under this CAFO. Changes in ownership, real property interest, or transfer of personal assets shall not alter Respondent's obligations under this CAFO. Any change in the legal status of the Respondent, or change in ownership, partnership, corporate or legal status relating to the TX, LA, and AR Facilities, will not in any way alter Respondent's obligations and responsibilities under this CAFO.

71. By signing this CAFO, Respondent acknowledges that this CAFO will be available to the public and agrees that this CAFO does not contain any confidential business information. See 40 C.F.R. Part 2, Subpart B (Confidentiality of Business Information).

72. By signing this CAFO, Respondent certifies that the information it has supplied concerning this matter was at the time of submission, and is, truthful, accurate, and complete for each submission, response, and statement. Respondent acknowledges that there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.

73. By signing this CAFO, Respondent certifies that it is presently in compliance with all requirements of RCRA and its implementing regulations.

74. By signing this CAFO, the undersigned representative of Respondent certifies that it is fully authorized to execute and enter into the terms and conditions of this CAFO and has the legal capacity to bind the party it represents to this CAFO.

75. Respondent and EPA agree to the use of electronic signatures for this matter. EPA and Respondent consent to service of this CAFO and final order by email at the following valid email addresses: Henley.Hollis@epa.gov (for EPA) and kenewag@icloud.com (for Respondent).

76. Respondent specifically waives its right to seek reimbursement of its costs and attorney's fees under 5 U.S.C. § 504 and 40 C.F.R. Part 17.

77. 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 require 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). 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 Division at chalifoux.jessica@epa.gov, on or before the date that Respondent's penalty payment is due pursuant to Section VI (penalty assessment and collection) of this CAFO, 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 5 days of Respondent's receipt of a TIN issued by the IRS.

VII. EFFECT OF CONSENT AGREEMENT AND RESERVATION OF RIGHTS

78. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this CAFO resolves only Respondent's liability, under Sections 3005(a) and 3008(a) of RCRA, 42 U.S.C. §§ 6925(a) and 6928(a), for federal civil penalties for the violations and facts alleged in Sections IV and V above. Complainant reserves the right to take any enforcement action with respect to any other violations of RCRA or any other applicable law.

79. The terms, conditions and requirements of this CAFO may not be modified or amended except upon the written agreement of both parties, and approval of the Regional Judicial Officer.

80. Penalties paid pursuant to this CAFO shall not be deductible for purposes of Federal, State, and local taxes.

81. When Respondent believes that it has complied with all the requirements of this CAFO, including compliance with the Compliance Order and payment of the civil penalty, Respondent shall also certify this in writing and in accordance with the certification language set forth in Section VI (Compliance Order).

82. Any violation of the included Final Order may result in a civil judicial action for an injunction or civil penalties as well as criminal sanctions. EPA may use any information submitted under this CAFO in an administrative, civil judicial, or criminal action.

83. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the Act and other federal, state, or local laws or statutes, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or a determination of, any issue related to any federal, state, or local permit. EPA does not, by its consent to the entry of this CAFO, warrant or aver in any manner that Respondent's compliance with any aspect of this CAFO will result in compliance with provisions of RCRA, 42 U.S.C. § 6901 *et seq.*, or with any other provisions of federal, state, or local laws, regulations, or permits.

84. Nothing herein shall be construed to limit the power of EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.

85. If and to the extent EPA finds, after signing this CAFO, that any information provided by Respondent was materially false or inaccurate at the time such information was provided to EPA, EPA reserves any and all of its legal and equitable rights.

VIII. EFFECTIVE DATE

86. Respondent and Complainant agree to the issuance of the included Final Order. Upon filing, EPA will transmit a copy of the filed CAFO to Respondent. This CAFO shall become effective after execution of the Final Order by the Regional Judicial Officer on the date of filing with the Regional Hearing Clerk. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

The foregoing Consent Agreement In the Matter of E3 OMI, LLC, Docket No. RCRA-06-2026-0914, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:

E3 OMI, LLC

Date: _____

J.T. Newman

Digitally signed by J.T.
Newman
Date: 2026.04.09
09:58:13 -05'00'

Signature

Print Name

Title

FOR COMPLAINANT:

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: _____

Cheryl T. Seager

Digitally signed by
CHERYL SEAGER
Date: 2026.04.13
13:14:01 -05'00'

Cheryl T. Seager
Director
Enforcement and
Compliance Assurance Division
U.S. EPA, Region 6

FINAL ORDER

Pursuant to Sections 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.

E3 OMI, LLC 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.

This Final Order shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order shall resolve only those causes of action alleged herein. Nothing in this Final Order shall be construed to waive, extinguish or otherwise affect Respondent's (or its officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action.

IT IS SO ORDERED.

Dated _____

**ELIZABETH
RYLAND** Digitally signed by
ELIZABETH RYLAND
Date: 2026.04.13
15:23:45 -05'00'

Renea Ryland
Acting Regional Judicial Officer

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Consent Agreement and Final Order was filed with me, the Regional Hearing Clerk, U.S. EPA - Region 6, 1201 Elm Street, Suite 500, Dallas, Texas 75270-2102, and that I sent a true and correct copy on this day in the following manner to the email addresses:

Copy via Email to Complainant:

Henley.Hollis@epa.gov
Penland.John@epa.gov

Copy via Email to Respondent:

kenewag@icloud.com
Ken Wagner
Counsel for Respondent

E3 OMI, LLC
1717 West 13th Street
Deer Park, TX 77536

LORENA
VAUGHN

Digitally signed by
LORENA VAUGHN
Date: 2026.04.13
16:41:40 -05'00'

Regional Hearing Clerk
U.S. EPA, Region 6