

5. 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 the CAFO.
6. The CAFO resolves only those violations which are alleged herein.
7. Respondent consents to the issuance of this CAFO as the most appropriate means of settling EPA's allegations without any adjudication of issues of law or fact, consents to the assessment and payment of the civil penalty in the amount and by the method set out in this CAFO, and consents to the compliance order in this CAFO.

II. JURISDICTION

8. This CAFO is issued by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), as amended by the Hazardous and Solid Waste Amendments of 1984 and is simultaneously commenced and concluded through the issuance of this CAFO under 40 Code of Federal Regulations ("C.F.R.") §§ 22.13(b) and 22.18(b)(2) and (3).
9. Respondent agrees to undertake and complete all actions required by the terms and conditions of this CAFO. In any action by EPA or the United States to enforce the terms of this CAFO, Respondent agrees not to contest the authority or jurisdiction of EPA to issue or enforce this CAFO and agrees not to contest the validity of this CAFO or its terms or conditions.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

10. Respondent is a Limited Liability Company authorized to do business in the State of Louisiana.

11. Respondent is a "person" within the meaning of Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and Title 33 of the Louisiana Administrative Code ("LAC") LAC 33:V.109 ¹, [40 C.F.R. § 260.10].
12. Respondent owns or operates the HOS Port Facility.
13. The HOS Port Facility is a port which provides dockage and support services to offshore supply vessels and multi-purpose service vessels which operate in the offshore oilfield and non-oilfield markets.
14. During the period from January 31, 2024, to August 20, 2024, EPA conducted a RCRA record review of the HOS Port Facility's activities as a generator of hazardous waste including a review of the information voluntarily provided to EPA by Respondent (the "Investigation").
15. The Investigation included a RCRA onsite inspection on February 6, 2024.
16. During the Investigation, EPA discovered that Respondent, at a minimum, generated and offered for transport and treatment, hazardous waste having the:
 - A. Characteristic of Ignitability: D001 (Ignitability)
17. The HOS Port Facility is a "facility" within the meaning of LAC 33: V.109, [40 C.F.R. § 260.10].
18. The waste streams identified in Paragraph 16 are "hazardous waste" as defined in LAC 33:V.4901.B & F, and 4903.E, [40 C.F.R. §§ 261.21, 261.22, 261.24, and 261.33].

¹ On January 24, 1985, the State of Louisiana received final authorization for its base Hazardous Waste Management Program (50 FR 3348). Subsequent revisions have been made to the Louisiana Hazardous Waste Program and authorized by the EPA. Except as otherwise provided, all citations found within this order 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 (December 26, 2018); 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. The corresponding C.F.R. citations are also provided.

19. From the Investigation, EPA determined that Respondent generated the hazardous waste streams identified in Paragraph 16 in quantities that exceeded the threshold amount of 100 kgs per month for a small quantity generator and 1000 kgs per month for a large quantity generator under LAC 33:V.108, [40 C.F.R. Part 262], for the periods that such wastes remained onsite.
20. Respondent is a "generator" of "hazardous waste" as those terms are defined in LAC 33:V.109, [40 C.F.R. § 260.10].
21. As a generator of hazardous waste, Respondent is subject to Sections 3002 and 3010 of RCRA, 42 U.S.C. §§ 6922 and 6930, and the regulations set forth in Title 33 of LAC Part V, Chapters 1 through 51, [40 C.F.R Part 262 and/or 270].

Claim i. Notification Requirements

22. The allegations in Paragraphs 1-21 are re-alleged and incorporated herein by reference.
23. Pursuant to Section 3010(a) of RCRA, 42 U.S.C. § 6930(a), and the regulation at LAC 33:V.1017, any person generating a characteristic or listed hazardous waste shall file with EPA or the authorized state a notification stating the location and general description of such activity and the identified characteristic or listed hazardous waste handled by such person. No identified characteristic or listed hazardous waste subject to this subchapter may be transported, treated, stored, or disposed of unless notification has been given as required by Section 3010(a) of RCRA, 42 U.S.C. § 6930(a).
24. Respondent did not file with EPA or Louisiana an adequate and timely notification of its hazardous waste activities at the HOS Port facility during August 2020 and November 2021

in violation of Section 3010(a) of RCRA, 42 U.S.C. § 6930(a) and the regulation at LAC 33.V.1017.

Claim ii. Failure to Comply with the Manifest Requirements

25. The allegations in Paragraphs 1-21 are realleged and incorporated by reference.
26. Pursuant to 40 C.F.R. § 262.20(a)(I) and LAC 33:V.1107 a generator shall not offer its hazardous waste for shipment unless it prepares a standard manifest form (EPA Form 8700-22) according to the instructions.
27. EPA reviewed several manifests prepared by Respondent from May 18, 2020, to June 25, 2023, and determined that 9 manifests were not prepared as required by the regulations. Therefore, Respondent violated 40 C.F.R § 262.20(a)(I) and LAC 33:V.1107.

Claim iii. Failure to Make Adequate Hazardous Waste Determinations

28. The allegations in Paragraphs 1-21 are realleged and incorporated by reference.
29. Pursuant to 40 C.F.R. § 262.11(c) and LAC 33.V.1103, a person who generates a solid waste, as defined in 40 C.F.R. § 261.2 and LAC 33:V.109, must determine if the solid waste is a hazardous waste either by applying the required test method or by applying its knowledge of the hazardous characteristic of the waste in light of the materials or the processes used.
30. EPA inspected the HOS Port Facility on February 6, 2024, and determined that Respondent failed to make an adequate hazardous waste determination on one waste stream of expired emergency floatation devices at the HOS Port Facility.
31. Respondent violated the requirements of RCRA and the regulations promulgated at 40 C.F.R. § 262.11 and LAC 33.V.1103 by failing to make the requisite hazardous waste determination on all solid waste streams generated by Respondent at the HOS Port Facility.

Claim iv. Failure to Meet the Standards for Management of Used Oil

32. The allegations in Paragraphs 1-21 are realleged and incorporated by reference.
33. Pursuant to 40 C.F.R. § 279.22(b)(1) and LAC 33.V.4013.C, containers and aboveground tanks used to store used oil at generator facilities must be in good condition (no severe rusting, apparent structural defects or deterioration).
34. Additionally, pursuant to 40 C.F.R. § 279.22(c) and LAC 33.V.4013.D.1, containers and aboveground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words "Used Oil."
35. EPA inspected the HOS Port Facility on February 6, 2024, and determined that Respondent failed to label six drums and one used oil tank. Additionally, Respondent failed to replace a drum that had cracks in its lid.
36. Respondent violated the requirements of RCRA and the regulations promulgated at 40 C.F.R. § 279.22(b)(1)-(c) and LAC 33.V.4013.C-D.1 by failing to label six drums and one used oil tank and by failing to replace a drum with a cracked lid at the HOS Port Facility.

IV. COMPLIANCE ORDER

37. Pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), Respondent is hereby ordered to take the following actions, and within 60 calendar days of the effective date of this CAFO, Respondent shall provide in writing the following:
 - A. Respondent shall certify that it has assessed all its solid waste streams at the HOS Port Facility to determine the accurate waste codes and has developed and implemented standard operating procedures ("SOPs") to ensure that Respondent is operating the HOS Port Facility 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 HOS Port Facility within the prescribed time period; and
- C. Respondent shall provide, with its certification, a copy of Respondent's SOPs as described in subparagraph A above.

38. 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 Respondent and shall include the following certification:

"I certify under the penalty of law that this document and all 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 to the following:

U.S. EPA, Region 6
Enforcement and Compliance Assurance Division (ECDSR)
1201 Elm Street, Suite 500
Dallas, Texas 75270-2102
ATTN: Claire Welton

Where possible, notice shall be sent electronically by email to Enforcement Officer Claire Welton at welton.claire@epa.gov or at 214-665-2250.

V. TERMS OF SETTLEMENT

A. Penalty Provisions

39. Respondent agrees to pay a civil penalty in the amount of Fifty Thousand Dollars (\$50,000) ("Assessed Penalty") within thirty (30) days after the date the Final Order ratifying this Agreement is filed with the Regional Hearing Clerk ("Filing Date").
40. 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>.
41. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.
42. When making a payment, Respondent shall:
- B. Identify every payment with Respondent's name and the docket number of this Agreement, Docket No. RCRA-06-2024-1004.
 - C. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve proof of such payment to the following person(s):

Lorena S. Vaughn
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 6
1201 Elm Street, Suite 500 (ORC)
Dallas, Texas 75270-2102
Vaughn.lorena@epa.gov; and

Claire Welton
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 6
1201 Elm Street, Suite 500 (ECDSR)
Dallas, Texas 75270-2101
welton.claire@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, 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.

43. Interest, Charges, and Penalties on Late Payments. Pursuant to 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 per this Agreement, 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 large corporate 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.

44. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Agreement, EPA may take additional actions. Such actions EPA may take include, but are not limited to, the following.

- A. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14.
- B. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.
- C. Suspend or revoke Respondent's licenses or other privileges or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, per 40 C.F.R. § 13.17.
- D. Refer this matter to the United States Department of Justice for litigation and collection, per 40 C.F.R. § 13.33.

45. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.
46. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Agreement shall not be deductible for purposes of federal taxes.

B. Costs

47. Each party shall bear its own costs and attorney's fees. Furthermore, Respondent specifically waives its right to seek reimbursement of its costs and attorney's fees under the Equal Access to Justice Act (5 U.S.C. § 504), as amended by the Small Business Regulatory Enforcement Fairness Act (P.L. 04-121), and any regulations promulgated pursuant to those Acts.

C. Tax Reporting

48. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, 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 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. In order 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 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 chalifoux.jessica@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 has applied for a TIN and that TIN has not been issued to Respondent within 30 days after the Effective Date, then Respondent, using the same email address identified in the preceding sub-paragraph, shall further:
 - a. notify EPA's Cincinnati Finance Center of this fact, via email, within 30 days after the Effective Date of this Order; and
 - b. provide EPA's Cincinnati Finance Center with Respondent's TIN, via email, within five (5) days of Respondent's issuance and receipt of the TIN.

D. Termination and Satisfaction

49. 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 IV (Compliance Order), Paragraph 37. Unless the EPA, Region 6 objects in writing within sixty (60) days of EPA's receipt of Respondent's certification, then this CAFO is terminated on the basis of Respondent's certification.

E. Effective Date of Settlement

50. This CAFO shall become effective upon filing with the Regional Hearing Clerk.

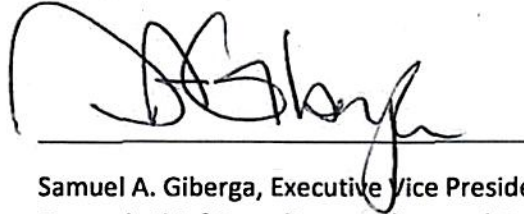
HOS Port, LLC
RCRA-06-2024-1004

THE UNDERSIGNED PARTIES CONSENT TO THE ENTRY OF THIS CONSENT AGREEMENT AND FINAL ORDER:

FOR THE RESPONDENT:

10/04/2024

Date



Samuel A. Giberga, Executive Vice President, General Counsel, Chief Compliance Officer and Corporate Secretary

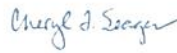
samuel.giberga@hornbeckoffshore.com

103 Northpark Blvd., Ste 300
Covington, LA 70433

FOR THE COMPLAINANT, EPA:

October 9, 2024

Date



Digitally signed by
CHERYL SEAGER
Date: 2024.10.09
13:17:40 -05'00'

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

HOS Port, LLC
RCRA-06-2024-1004

FINAL ORDER

Pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the foregoing CAFO is hereby ratified. 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. Respondent is ordered to comply with the terms of settlement and the civil penalty payment instructions as set forth in the CAFO. Pursuant to 40 C.F.R. § 22.31(b) this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Date: _____

**THOMAS
RUCKI**

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THOMAS RUCKI
Date: 2024.10.09 16:33:26
-04'00'

Thomas Rucki
Regional Judicial Officer

HOS Port, LLC
RCRA-06-2024-1004

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 addressees:

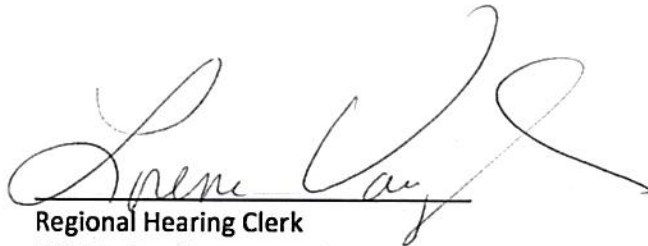
Copy via Email to Complainant, EPA:

george.elizabeth.a@epa.gov and welton.claire@epa.gov

Copy via Email to Respondent:

Kathleen.Harrison@hornbeckoffshore.com

HOS Port, LLC
103 Northpark Blvd., Ste 300
Covington, LA 70433



Regional Hearing Clerk
EPA Region 6