

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In the matter of:

Republic Service of PA, LLC	:	The Clean Streams Law
4400 Mount Pisgah Road	:	NPDES Permit No. PA0046680
York, PA 17406	:	Windsor and Lower Windsor Townships
	:	York County

CONSENT ASSESSMENT OF CIVIL PENALTY

This Consent Assessment of Civil Penalty (“CACP”) is entered into this *27th* day of *August*, 2019, by and between the Commonwealth of Pennsylvania, Department of Environmental Protection (“Department”) and Republic Service of PA LLC (“Republic Services”).

The Department has found and determined the following:

- A. The Department is the agency with the duty and authority to administer and enforce the Pennsylvania Clean Streams Law, the Act of June 22, 1937, P.L. 1987, as amended, 35 P.S. § 691.1 et seq. (“the Clean Streams Law”); Section 1917-A of the Administrative Code, the Act of April 9, 1929, P.L. 177, as amended, 71 P.S. § 510-17 (“Administrative Code”) and the rules and regulations promulgated thereunder, and which has been delegated authority to administer the National Pollutant Discharge Elimination System (“NPDES”) permit program under the Federal Clean Water Act, 33 U.S.C § 1342.
- B. Republic Services is a Limited Liability Company registered to do business in Pennsylvania, which has a mailing address of 4400 Mount Pisgah Road, York, PA 17406.
- C. Republic Services does business as Modern Landfill (“Modern”) and has registered the name with the Department of State.
- D. Republic Services owns and operates Modern. Modern is located at 4400 Mount Pisgah Road, York, PA 17406 in both Windsor and Lower Windsor Townships, York County.
- E. Industrial Wastewater generated by Modern is treated at an on-site industrial wastewater treatment plant (“Plant”). The discharge from the Plant constitutes industrial waste under Sections 301 and 307 of the Clean Streams Law, 35 P.S. § § 691.301 and 691.307. The authority to discharge industrial waste from the Plant through outfall 001 into Kruetz Creek, a water of the Commonwealth, is authorized under the terms and conditions of

NPDES Permit No. PA0046680, which was effective on April 21, 2017, and expires on January 1, 2022.

- F. The Plant is located within the Chesapeake Bay watershed.
- G. Republic Services is required by its NPDES Permit and Sections 301 and 307 of the Clean Streams Law, 35 P.S. §§ 691.301 and 691.307 to fully comply with the effluent limits set forth in its NPDES permit.
- H. Section 301 of the Clean Streams Law provides: “No person or municipality shall place or permit to be placed, or discharge or permit to flow, or continue to discharge or permit to flow, into any of the waters of the Commonwealth any industrial wastes, except as hereinafter provided in this act.”
- I. Section 307 of the Clean Streams Law provides: “No person or municipality shall discharge or permit the discharge of industrial wastes in any manner, directly or indirectly, into any of the waters of the Commonwealth unless such discharge is authorized by the rules and regulations of the department or such person or municipality has first obtained a permit from the department. For the purposes of this section, a discharge of industrial wastes into the waters of the Commonwealth shall include a discharge of industrial wastes by a person or municipality into a sewer system or other facility owned, operated or maintained by another person or municipality and which then flows into the waters of the Commonwealth.
- J. No person or municipality shall discharge or permit the discharge of industrial waste without first obtaining a permit from the Department. A discharge of industrial waste without a permit or contrary to the terms and conditions of a permit is declared a nuisance.
- K. Between October 1, 2017 and September 30, 2018, Republic Services discharged 51,773 pounds of Total Nitrogen (“TN”) in exceedance of the 50,803 pounds of TN which Republic Services is permitted to discharge per the cap load in its NPDES Permit.
- L. Republic Services purchased 60,269 credits for TN during compliance year 2017-2018, however, failed to purchase a sufficient number of credits. In order for Republic Services to have achieved compliance with the cap load in its NPDES permit, an additional 970 TN credits were needed.
- M. The violation of the permitted effluent limit described in paragraph K, above, constitutes a violation of Sections 301 and 307 of the Clean Streams Law, 35 P.S. §§691.301 and 691.307.
- N. Section 611 of the Clean Streams Law states: “It shall be unlawful to fail to comply with any rule or regulation of the department or to fail to comply with any order or permit or license of the department, to violate any of the provisions of this act or rules and regulations adopted hereunder, or any order or permit or license of the department, to

cause air or water pollution, or to hinder, obstruct, prevent or interfere with the department or its personnel in the performance of any duty hereunder or to violate the provisions of 18 Pa.C.S. section 4903 (relating to false swearing) or 4904 (relating to unsworn falsification to authorities). Any person or municipality engaging in such conduct shall be subject to the provisions of sections 601, 602 and 605.”

- O. The violation described in paragraph K, above, constitutes unlawful conduct under Section 611 of The Clean Streams Law, 35 P.S. § 691.611; and subjects Republic Services to a claim for civil penalties under Section 605 of The Clean Streams Law, 35 P.S. § 691.605.

After full and complete negotiation of all matters set forth in this CACP and upon mutual exchange of the covenants herein, the parties desiring to avoid litigation and intending to be legally bound, it is hereby ASSESSED by the Department and AGREED to by Republic Services as follows:

1. **Assessment.** In resolution of the Department’s claim for civil penalties, which the Department is authorized to pursue under Section 605 of The Clean Streams Law, 35 P.S. § 691.605, the Department hereby assesses a civil penalty of \$6,450.00, which Republic Services hereby agrees to pay.
2. **Civil Penalty Settlement.** Upon signing this CACP, Republic Services shall pay the civil penalty assessed in Paragraph 1. This payment is in settlement of the Department’s claim for civil penalties for the violations and dates set forth in paragraph K, above. The payment shall be by corporate check or the like, made payable to “Commonwealth of Pennsylvania, Clean Water Fund”, and sent c/o Summer Kunkel, Water Quality Specialist Supervisor, DEP Clean Water Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200.
3. **Findings.**
 - a. Republic Services agrees that the findings in paragraphs A through O are true and correct, and in any matter or proceeding involving Republic Services and the Department, Republic Services shall not challenge the accuracy or validity of these findings.
 - b. The parties do not authorize any other persons to use the findings in this CACP in any matter or proceeding.
4. **Reservation of Rights.** The Department reserves all other rights with respect to any matter addressed by this CACP, including the right to require abatement of any conditions resulting from the events described in the Findings. Republic Services reserves the right to challenge any action which the Department may take, but waives the right to challenge the content or validity of this CACP.

IN WITNESS WHEREOF, the parties have caused the CACP to be executed by their duly authorized representatives. The undersigned representatives of Republic Services certify, under penalty of law, as provided by 18 Pa. C.S. § 4904, that they are authorized to execute this CACP on behalf of Republic Services, that Republic Services consents to the entry of this CACP as an ASSESSMENT of the Department; that Republic Services hereby knowingly waives any right to a hearing under the statutes referenced in this CACP; and that Republic Services knowingly waives its right to appeal this CACP, which rights may be available under Section 4 of the Environmental Hearing Board Act, the Act of July 13, 1988, P.L. 530, 35 P.S. § 7514; the Administrative Agency Law, 2 Pa. C.S. § 103(a) and Chapters 5A and 7A, or any other provision of law. Signature by Republic Services' attorney certifies only that the agreement has been signed after consulting with counsel.

FOR REPUBLIC SERVICES:

FOR THE COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF ENVIRONMENTAL PROTECTION:

Kevin Bremer 8/20/19
 Name: Kevin Bremer Date
 Title: Vice President

Maria Bebenek 8/27/19
 Name: Maria Bebenek Date
 Program Manager
 Water Management Program

 Name: _____ Date
 Title: _____

Janna Williams 8/27/19
 Name: Janna Williams Date
 Assistant Counsel

Judith A. George
 Name: Judith A. George Date 8-22-19
 Attorney for Republic Services

(Or initials of responsible person indicating waiver of opportunity for attorney review.)

REPUBLIC SERVICES, INC.

BANK OF AMERICA

4425012

Check Date

Number

C/O AWIN MGMT INC
C/O ALLIED WASTE SERVICES
18500 N ALLIED WAY
PHOENIX, AZ 85054

52-153-112

08/20/2019

7350341

PAY Six Thousand Four Hundred Fifty and 00/100 Dollars

Amount

\$ *****6,450.00

Void After 180 Days

PAY TO THE ORDER OF COMMONWEALTH OF PA CLEAN WATER
DEPT ENVRNTL PRTCN SE RGNL OFC
2 E MAIN ST
NORRISTOWN PA 19401-4915

[Signature]
Authorized Signature

ll/cw/comp/SK

Insp ID
2860263

Clean Water Program
Compliance Check Distribution Form

Name: REPUBLIC SERVICES INC

County: YORK Municipality: Windsor and Lower Windsor Twpshs

Permit No. PA0040680 Efacts Id: _____

Action: CACP

Date Rcv'd: 8-21-19 Amount: \$6,450.00

GL	COST CENTER	FUND	SHORT DESCRIPTION	AMOUNT
4425012	3544360000	6007200001	Fines & Penalties Clean Water Fund	\$
Total Check Amount				\$

From: _____ (Compliance Specialist)

WASS