

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 5



In the Matter of:)	Docket No. RCRA-05-2026-0017
)	
Logistics Recycling, Inc.,)	Proceeding to Commence and Conclude
Green Bay, Wisconsin,)	an Action to Assess a Civil Penalty
)	Under Section 3008(a) of the Resource
Respondent.)	Conservation and Recovery Act,
)	42 U.S.C. § 6928(a)
<u>EPA ID No.: WIR000169375</u>)	

Consent Agreement and Final Order

Preliminary Statement

1. This administrative action is commenced and concluded under Section 3008(a) of the Solid Waste Disposal Act, as amended, also known as the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a), and Sections 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 Complainant is the Director of the Enforcement and Compliance Assurance Division, United States Environmental Protection Agency (U.S. EPA), Region 5.

3. U.S. EPA provided notice of commencement of this action to the State of Wisconsin pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

4. Respondent is Logistics Recycling, Inc. (LRI), a corporation doing business in the State of Wisconsin.

5. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a Consent Agreement and Final Order (CAFO). 40 C.F.R. §§ 22.13(b).

6. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

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

Jurisdiction and Waiver of Right to Hearing

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

9. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

10. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal 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 consent agreement.

Statutory and Regulatory Background

11. U.S. EPA has promulgated regulations, codified at 40 C.F.R. parts 260 through 279, governing generators and transporters of hazardous waste and facilities that treat, store, and dispose of hazardous waste, pursuant to Sections 3001–3007, and 3013, among others, of RCRA, 42 U.S.C. §§ 6921–6927, and 6934.

12. Pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, the Administrator of U.S. EPA may authorize a state to administer the RCRA hazardous waste program in lieu of the federal program when the Administrator finds that the state program meets certain conditions.

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

14. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of U.S. EPA granted the State of Wisconsin final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program effective January 31, 1986. *51 Fed. Reg.* 3783 (January 31, 1986). Subsequently, EPA authorized revisions and updates to Wisconsin's RCRA hazardous waste program on May 23, 1989, effective June 6, 1989 (*54 Fed. Reg.* 22278); on November 22, 1989, effective January 22, 1990 (*54 Fed. Reg.* 48243); on April 24, 1992, effective April 24, 1992 (*57 Fed. Reg.* 15029); on June 2, 1993, effective August 2, 1993 (*58 Fed. Reg.* 31344); on August 5, 1994, effective October 4, 1994 (*59 Fed. Reg.* 39971); on August 5, 1999, effective October 4, 1999 (*64 Fed. Reg.* 42630); on June 26, 2002, effective June 26, 2002 (*67 Fed. Reg.* 43027); on April 15, 2009, effective on the same date (*74 Fed. Reg.* 17423), and on April 17, 2009, effective on the same date (*74 Fed. Reg.* 17785).

15. The U.S. EPA-authorized Wisconsin hazardous waste regulations are codified in State regulations at Wisconsin Administrative Code chs. NR 600–690 (November 2010 version). *See* 40 C.F.R § 272.2501(c)(1).

16. Under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), U.S. EPA may issue an order assessing a civil penalty for any past or current violation of RCRA, requiring compliance

immediately or within a specified period of time, or both. The Administrator of U.S. EPA may assess a civil penalty of up to \$124,426 per day for each violation of Subtitle C of RCRA when the violation occurred after November 2, 2015, and the penalties are assessed after January 8, 2025, pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and 40 C.F.R. Part 19.

Factual Allegations and Alleged Violations

17. Respondent is a transporter of hazardous waste with a 10-day transfer facility (Transfer Facility) located at 2955 Ramada Way in Green Bay, Wisconsin 54304.

18. Respondent is a “person” as defined by Wis. Admin. Code § . NR 660.10(90) and Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

19. At all times relevant to this CAFO, Respondent’s Transfer Facility consisted of land and structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste.

20. Respondent’s Transfer Facility is a “facility” as that term is defined under Wis. Admin. Code § NR 660.10(43).

21. Respondent is an “operator” or “owner,” as those terms are defined under Wis. Admin. Code §§ NR 660.10(87) and NR 660.10(88), of the Transfer Facility.

22. At all times relevant to this CAFO, Respondent’s Transfer Facility is and was a transportation-related facility consisting of loading docks, parking areas, storage areas, and other similar areas where shipments of hazardous waste or hazardous secondary materials were held during the normal course of transportation.

23. Respondent’s Transfer Facility is a “transfer facility” as that term is defined under Wis. Admin. Code § NR 660.10(122).

24. Respondent began managing hazardous waste at its Facility after November 19, 1980.

25. At all times relevant to this CAFO, Respondent had not applied for or obtained a RCRA hazardous waste operating license (RCRA License).

26. On August 27, 2024, the Wisconsin Department of Natural Resources (WDNR) conducted a RCRA Compliance Evaluation Inspection at Respondent's Facility (the Inspection).

27. On October 11, 2024, WDNR issued a Notice of Noncompliance (NON) to Respondent, alleging certain violations of RCRA discovered during the inspection.

28. On November 8, 2024, Respondent submitted to WDNR a written response (Notice Response) to the NON.

29. On February 14, 2025, WDNR referred violations alleged in the NON to the U.S. EPA for additional enforcement (Referral).

Count 1: Storage of Hazardous Waste for Longer than 10 Days Without a RCRA License

30. Complainant incorporates paragraphs 1 through 29 of this CAFO as though set forth in this paragraph.

31. Pursuant to 3005(a) of RCRA, 42 U.S.C. § 6925(a), and the regulations at Wis. Admin. Code ch. 670, the treatment, storage, or disposal of hazardous waste by any person who has not applied for or received a RCRA License is prohibited.

32. Pursuant to Wis. Admin. Code §§ NR 663.12(1) and NR 670.001(3)(b)(6), however, a transporter who stores manifested shipments of hazardous waste in containers meeting the independent requirements of Wis. Admin. Code § NR 662.030 at a transfer facility for a period

of ten (10) days or less (Ten Day Rule) is not subject to regulation under Wis. Admin. Code chs. 664, 665, 667, 668, and 670 with respect to the storage of those wastes.

33. A transfer facility that fails to comply with the Ten Day Rule is subject to the requirements under Wis. Admin. Code chs. 664, 665, 667, 668, and 670, including the requirements to apply for and obtain a RCRA License pursuant to Wis. Admin. Code §§ NR 670.0001(3) and NR 670.010(1) and (4).

34. From information provided in the Referral, U.S. EPA identified 70 manifests of hazardous waste from the time period of February 2022 to May 2024 during which Respondent stored the hazardous waste at its Transfer Facility for greater than 10 days.

35. For the 70 manifests showing that Respondent stored hazardous waste at its Transfer Facility for more than 10 days, the number of days Respondent stored the hazardous waste ranged between 22 and 307 days.

36. By storing hazardous waste at its Transfer Facility for more than 10 days, Respondent failed to comply with the Ten Day Rule and was not exempted from regulation under Wis. Admin. Code chs. 664, 665, 667, 668, and 670, including the requirements to apply for and obtain a RCRA License pursuant to Wis. Admin. Code §§ NR 670.0001(3) and NR 670.010(1) and (4).

37. As a result of Respondent's failure to comply with the Ten Day Rule, Respondent became an operator of a hazardous waste treatment, storage, and disposal facility.

38. Respondent's storage of hazardous waste without a RCRA License in 70 instances from February 2022 to May 2024 violated Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), and the requirements of Wis. Admin. Code ch. 670, including the requirements to apply for and

obtain a RCRA License pursuant to Wis. Admin. Code §§ NR 670.0001(3) and NR 670.010(1) and (4).

Civil Penalty

39. Pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), Complainant determined that an appropriate civil penalty to settle this action is \$52,596. In determining the penalty amount, Complainant considered the seriousness of the violation and any good faith efforts to comply with the applicable requirements. Complainant also considered U.S. EPA's RCRA Civil Penalty Policy, dated June 23, 2003.

40. Respondent agrees to pay a civil penalty in the amount of \$52,596 (Assessed Penalty) within 30 days after the date of the Final Order ratifying this Agreement is filed with the Regional Hearing Clerk (Filing Date).

41. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions, see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

42. When making a payment, Respondent shall:

a. Identify every payment with Respondent's name and the docket number of this Agreement, RCRA-05-2026-0017,

b. Concurrently with any payment or within 24 hours of any payment,

Respondent shall serve proof of such payment to the following person(s):

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5
R5hearingclerk@epa.gov

Brenda Whitney
Land Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency, Region
Whitney.Brenda@epa.gov and
R5LECAB@epa.gov

Elyse Voyen
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
voyen.elyse@epa.gov

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, and identified with the appropriate docket number and Respondent’s name.

43. Interest, Charges, and Penalties on Late Payments. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay the full amount of the Assessed Penalty per this Consent Agreement, U.S. EPA is authorized to recover, in addition to the amount of the unpaid Assessed Penalty, the following amounts:

- a. Interest. Interest begins to accrue from the Filing Date. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. To protect the interests of the United States, the rate of interest is set at the IRS standard underpayment rate,

any lower rate would fail to provide Respondent adequate incentive for timely payment

- b. Handling Charges. Respondent will be assessed a charge monthly to cover U.S. EPA's costs of processing and handling overdue debts. If Respondent fails to pay the Assessed Penalty in accordance with this Agreement, U.S. 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, U.S. EPA may take additional actions. Such actions U.S. 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 (IRS) 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 U.S. EPA or engaging in programs U.S. 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.

47. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, U.S. EPA is required to send to the 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 U.S. 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." U.S. 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 U.S. EPA with sufficient information to enable it to fulfill these obligations, U.S. 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 Milton Wise at U.S. EPA's Cincinnati Finance Center at Wise.Milton@epa.gov, within thirty (30) days after the effective date of this CAFO, and U.S. 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 U.S. EPA's Cincinnati Finance Center with Respondent's TIN via email within five (5) days of Respondent's receipt of a TIN issued by the IRS.

General Provisions

48. The parties consent to service of this CAFO by e-mail at the following valid email address: voyen.elyse@epa.gov (for Complainant), and _____ (for Respondent). Respondent understands that the CAFO will become publicly available upon filing.

49. Respondent's full payment of the penalty and compliance with this CAFO resolves only Respondent's liability under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for federal civil penalties for the violations alleged in this CAFO.

50. This CAFO does not affect the right of U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

51. This CAFO does not affect Respondent's responsibility to comply with RCRA and other applicable federal, state, and local laws or permits.

52. Respondent certifies that it is complying fully with RCRA, 42 U.S.C. §§ 6901–6992k, and the regulations at Wis. Admin. Code chs. NR 660–679.

53. This CAFO is a "final order" for purposes of 40 C.F.R. § 22.31, U.S. EPA's RCRA Civil Penalty Policy, and U.S. EPA's Hazardous Waste Civil Enforcement Response Policy (December 2003).

54. The terms of this CAFO bind Respondent, its successors, and its assigns.

55. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

56. Each party agrees to bear its own costs and attorney's fees in this action.

57. This CAFO constitutes the entire agreement between the parties.

Logistics Recycling, Inc., Respondent

Date



Logistics Recycling, Inc.

United States Environmental Protection Agency, Complainant

Carolyn Persoon
Division Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 5

In the Matter of: Logistics Recycling, Inc.
Docket No.: RCRA-05-2026-0017

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

Ann L. Coyle
Regional Judicial Officer
United States Environmental Protection Agency
Region 5