

FILED

Jun 11, 2025

11:39 am

**U.S. EPA REGION 5
HEARING CLERK**

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:)	Docket No. RCRA-05-2025-0025
)	
Ecolab, Inc.)	Proceeding to Commence and Conclude
Joliet, Illinois)	an Action to Assess a Civil Penalty
)	Under Section 3008(a) of the Resource
)	Conservation and Recovery Act,
Respondent.)	42 U.S.C. § 6928(a)
)	

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action 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 Illinois pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

4. Respondent is Ecolab, Inc., a corporation doing business in the State of Illinois.

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 Illinois 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. 3778 (Jan. 30, 1986) .

15. 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, 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 that occurred after November 2, 2015 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

16. Respondent is a "person" as defined by 35 Ill. Adm. Code § 720.110, 40 C.F.R. § 260.10, and Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

17. Respondent is the "owner" or "operator," as those terms are defined under 35 Ill. Adm. Code § 720.110 and 40 C.F.R. § 260.10, of a facility located at 3001 Channahon Road, Joliet, Illinois 60436 (Facility).

18. At all times relevant to this CAFO, Respondent's Facility consisted of land and

structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste.

19. Respondent's Facility is a "facility" as that term is defined under 35 Ill. Adm. Code § 720.110 and 40 C.F.R. § 260.10.

20. At all times relevant to this CAFO, Respondent used a sodium hydroxide solution to manufacture a blended caustic product (CAST) with a pH between 12 and 14.

21. At all times relevant to this CAFO, the CAST process generated rinse waters which are collected in a tank in the truck services area, along with wastewaters from a small group of products containing zinc (zinc wastewater).

22. At all times relevant to this CAFO prior to 2022, Respondent held the zinc wastewaters, a discarded material, for temporary periods in a tank before shipping the material from its Facility for treatment, storage, disposal, burning, incineration, or reuse elsewhere.

23. Respondent characterized its zinc wastewaters as hazardous waste code D001.

24. Respondent stored, transported, disposed of, or otherwise handled its zinc wastewater in a "tank" as that term is defined under 35 Ill. Adm. Code § 720.110 and 40 C.F.R. § 260.10.

25. At all times relevant to this CAFO prior to October 2022, Respondent's zinc wastewater was a "solid waste" as that term is defined under 35 Ill. Adm. Code § 720.110 and 40 C.F.R. § 261.2.

26. At all times relevant to this CAFO, Respondent's zinc wastewater was a "hazardous waste" as that term is defined under 35 Ill. Adm. Code § 720.110 and 40 C.F.R. § 261.3.

27. At all times relevant to this CAFO, Respondent's holding of zinc wastewater in a tank

constituted hazardous waste “storage,” as that term is defined under 35 Ill. Adm. Code § 720.110 and 40 C.F.R. § 260.10.

28. At all times relevant to this CAFO, the organic area, manufacture of the CAST, and various liquid processes generated off-spec waste which Respondent collected in containers of various size and stored in the hazardous waste storage areas.

29. At all times relevant to this CAFO, Respondent held off-spec material, a discarded material, for temporary periods in containers or totes before shipping the material from its Facility for treatment, storage, disposal, burning or incineration elsewhere.

30. Respondent characterized its off-spec material as hazardous waste codes D001 and D002.

31. Respondent stored, transported, disposed of, or otherwise handled its off-spec material in “containers” as that term is defined under 35 Ill. Adm. Code § 720.110 and 40 C.F.R. § 260.10.

32. At all times relevant to this CAFO, Respondent’s off-spec material was a “solid waste” as that term is defined under 35 Ill. Adm. Code § 720.110 and 40 C.F.R. § 261.2.

33. At all times relevant to this CAFO, Respondent’s off-spec material was a “hazardous waste” as that term is defined under 35 Ill. Adm. Code § 720.110 and 40 C.F.R. § 261.3.

34. At all times relevant to this CAFO, facility operations and maintenance activities generated aerosol cans which Respondent collected in containers and stored in hazardous waste storage areas and satellite accumulation areas.

35. At all times relevant to this CAFO, Respondent held aerosol cans, a discarded material, for temporary periods in containers before shipping the material from its Facility for

treatment, storage, disposal, burning or incineration elsewhere.

36. Respondent characterized its aerosol cans as hazardous waste code D001.

37. Respondent stored, transported, disposed of, or otherwise handled its aerosol cans in “containers” as that term is defined under 35 Ill. Adm. Code § 720.110 and 40 C.F.R. § 260.10.

38. At all times relevant to this CAFO, Respondent’s aerosol cans were a “solid waste” as that term is defined under 35 Ill. Adm. Code § 720.110 and 40 C.F.R. § 261.2.

39. At all times relevant to this CAFO, Respondent’s aerosol cans were a “hazardous waste” as that term is defined under 35 Ill. Adm. Code § 720.110 and 40 C.F.R. § 261.3.

40. At all times relevant to this CAFO, Respondent collected chemical lab generated waste lab retains and reagents (“lab waste”) in containers and stored them in the lab satellite accumulation area before transferring them to the hazardous waste storage area.

41. At all times relevant to this CAFO, Respondent held lab waste, a discarded material, for temporary periods in containers before shipping the material from its Facility for treatment, storage, disposal, burning or incineration elsewhere.

42. Respondent characterized its lab waste as hazardous waste with various waste codes.

43. Respondent stored, transported, disposed of, or otherwise handled its lab waste in “containers” as that term is defined under 35 Ill. Adm. Code § 720.110 and 40 C.F.R. § 260.10.

44. At all times relevant to this CAFO, Respondent’s lab waste was a “solid waste” as that term is defined under 35 Ill. Adm. Code § 720.110 and 40 C.F.R. § 261.2.

45. At all times relevant to this CAFO, Respondent’s lab waste was a “hazardous waste” as that term is defined under 35 Ill. Adm. Code § 720.110 and 40 C.F.R. § 261.3.

46. Respondent is a “generator,” as that term is defined in 35 Ill. Adm. Code § 720.110 and 40 C.F.R. § 260.10.

47. Respondent’s Facility was generating and managing hazardous waste “on or before” November 19, 1980. 40 C.F.R. Part 265 applies to a facility if the facility existed on or before Nov. 19, 1980, and the facility: (1) has interim status, (2) had interim status during the period of violation, or (3) could have and should have had interim status.

48. On December 8, 2022, U.S. EPA conducted a Compliance Evaluation Inspection of the Facility (the Inspection).

49. On June 15, 2023, U.S. EPA issued a Request for Information to Respondent to gather information on observations of the Inspection.

50. On July 28, 2023, Respondent submitted to U.S. EPA a written response to the Request for Information.

51. On March 4, 2024, U.S. EPA issued a Notice of Potential Violation and Opportunity to Confer to Respondent alleging certain violations of RCRA discovered during the inspection.

52. On April 30, 2024, Respondent submitted to U.S. EPA a written response to the Notice of Potential Violation and Opportunity to Confer.

53. At all times relevant to this CAFO, the State of Illinois had not issued a permit to Respondent to treat, store, or disposed of hazardous waste at its Facility.

54. At all times relevant to this CAFO, Respondent did not have interim status for the treatment, storage, or disposal of hazardous waste at its Facility.

55. On or about August 8, 1980, Respondent submitted a Hazardous Waste Notification to EPA for the Facility.

56. The Hazardous Waste Notification indicated that Respondent is a Large Quantity Generator.

57. At all times relevant to this CAFO, the Facility generated more than 1000 kg of hazardous waste during each calendar month.

Count 1: Storage of Hazardous Waste Without a Permit or Interim Status

58. Complainant reincorporates and alleges Paragraphs 1 through 57 of this CAFO as though set forth herein.

59. Pursuant to Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), and the regulations at 40 C.F.R. Part 270, the treatment, storage, or disposal of hazardous waste by any person who has not applied for or received a permit is prohibited.

60. Pursuant to 35 Ill. Adm. Code § 722.134¹, however, and subject to certain exceptions, a generator of hazardous waste may accumulate hazardous waste on-site for 90 days or less without having a permit or interim status, provided that the generator complies with all applicable conditions set forth in 35 Ill. Adm. Code § 722.134, including, but not limited to, the requirements for owners and operators set forth in 35 Ill. Adm. Code Part 724.

61. A generator who accumulates hazardous waste for more than 90 days is an operator of a storage facility and is subject to 35 Ill. Admin. Code Part 725 and the permit requirements of 35 Ill. Adm. Code §§ 703.121, 703.180, and 705.121, unless the generator has been granted an extension to the 90-day period. Storage for more than 90 days subjects the

¹ We note that on November 19, 2018, the State of Illinois promulgated revised regulations which have not yet been authorized by EPA. EPA authorized an earlier edition of the Illinois hazardous waste regulations which contained a provision at Ill. Admin. Code tit. 35 § 722.134 that remains the RCRA authorized Large Quantity Generator provision in Illinois.

generator of hazardous waste to the requirement to either obtain a permit or achieve interim status. 35 Ill. Admin. Code § 722.134.

62. At all times relevant to this CAFO, Respondent had not been granted an extension to accumulate hazardous waste for more than 90 days.

63. Similarly, the failure to comply with any of the conditions of 35 Ill. Adm. Code § 722.134 subjects the generator of hazardous waste to the requirements of 35 Ill. Adm. Code § 724 and the permit requirements of 35 Ill. Adm. Code §§ 703.121, 703.180, and 705.121.

64. In order for a generator of hazardous waste to maintain its exemption from the requirement to have an operating permit or interim status, it must accumulate hazardous waste on-site for 90 days or less. 35 Ill. Admin. Code § 722.134(a) and (b).

65. At the time of the inspection, Respondent accumulated at least 31 containers of hazardous waste on-site for greater than 616 days without obtaining or applying for a permit.

66. In order for a generator of hazardous waste to maintain its exemption from the requirement to have an operating permit or interim status, it must clearly mark each container holding hazardous waste with the date upon which each period of accumulation begins. 35 Ill. Admin. Code § 722.134(a)(2).

67. At the time of the inspection, Respondent failed to clearly mark seven containers holding hazardous waste with the date upon which each period of accumulation begins without obtaining or applying for a permit.

68. In order for a generator of hazardous waste to maintain its exemption from the requirement to have an operating permit or interim status, it must label or clearly mark each container holding hazardous waste with the words "Hazardous Waste." 35 Ill. Admin. Code §

722.134(a)(3).

69. At the time of the inspection, Respondent failed to label or clearly mark eleven pallets and over seventy-six containers holding hazardous waste with the words “Hazardous Waste” without obtaining or applying for a permit.

70. In order for a generator of hazardous waste to maintain its exemption from the requirement to have an operating permit or interim status, it may have as much as 55-gallons of hazardous waste or one quart of acutely hazardous waste in containers at or near any point of generation, under the control of the operator of the process, which must be marked with the words “Hazardous Waste” or with other words that identify the contents of the containers. 35 Ill. Admin. Code § 722.134(c)(1) and(c)(1)(A) and (B).

71. At the time of the inspection, Respondent failed to remove excess hazardous waste in two satellite accumulation areas exceeding 55-gallons without obtaining or applying for a permit.

72. In order for a generator of hazardous waste to maintain its exemption from the requirement to have an operating permit or interim status, it must remove excess amounts of waste within three days of generation to continue to comply with 35 Ill. Admin. Code § 722.134(c)(1). The generator must mark the container holding the excess accumulation of hazardous waste with the date the excess amount began accumulating. 35 Ill. Admin. Code § 722.134(c)(2).

73. At the time of the inspection, Respondent failed to remove two containers of hazardous waste, dated December 1, 2022, from two satellite storage areas within three days of generation without obtaining or applying for a permit.

74. Accordingly, Respondent failed to satisfy the conditions for maintaining its exemption from the requirement that it have an operating permit or interim status.

75. As a result of Respondent's failure to meet the applicable conditions for the generator exemption provided by 35 Ill. Adm. Code § 722.134, Respondent became an operator of a hazardous waste treatment, storage, and disposal facility (TSDF).

76. Respondent's storage of hazardous waste without a permit or interim status violated Section 3005 of RCRA, 42 U.S.C. § 6925(a) and the requirements of 35 Ill. Adm. Code §§ 703.121, 703.180, and 705.121.

Count 2: Management of Containers

77. Complainant reincorporates and alleged Paragraphs 1 through 57 of this CAFO as though fully set forth herein.

78. Pursuant to 35 Ill. Admin. Code §§ 722.134(a)(1)(A) and 725.273(a), a large quantity generator must always keep a container holding hazardous waste closed during storage, except when it is necessary to add or remove waste.

79. At all times relevant to this CAFO, Respondent was a large quantity generator. See Paragraphs 55 and 56, above.

80. At the time of the inspection, Respondent had three containers open when waste was not being added or removed in the hazardous waste storage areas.

81. Respondent's failure to keep the containers closed during storage violated 35 Ill. Admin. Code §§ 722.134(a)(1)(A) and 725.273(a).

Count 3: Failure to Conduct Personnel Training

82. Complainant reincorporates and alleges Paragraphs 1 through 57 of this CAFO as

though fully set forth herein.

83. Pursuant to 35 Ill. Admin. Code §§ 722.134(a)(4) and 725.116(d), a large quantity generator of hazardous waste must have a program of classroom instruction, or on-the-job training that teaches facility personnel to perform their duties in a way that ensures the facility's compliance with requirements of RCRA and must maintain documents and records at the facility specified under 35 Ill. Admin. Code § 725.116(d).

84. At all times relevant to this CAFO, Respondent was a large quantity generator. See Paragraphs 55 and 56, above.

85. At the time of the inspection, Respondent did not have documentation of annual training for its personnel regarding calendar year 2020.

86. At the time of the inspection, Respondent did not have documentation of annual training for its personnel regarding calendar year 2021.

87. Respondent's failure to complete annual training and maintain and keep training records on current personnel was a violation of 35 Ill. Admin. Code §§ 722.134(a)(4) and 725.116(d).

Count 4: Failure of Maintenance and Operation

88. Complainant reincorporates and alleges Paragraphs 1 through 57 of this CAFO as though fully set forth herein.

89. Pursuant to 35 Ill. Admin. Code § 725.131 requires that the facility be maintained and operated to minimize the possibility of fire, explosion, or any unplanned sudden or non-sudden releases of hazardous waste or hazardous waste constituents to air, soil, or surface water that could threaten human health or the environment.

90. At the time of the inspection, Inspectors observed an uncontrolled release of hazardous waste from the hazardous waste tank in the facility's outdoor truck service area.

91. Therefore, Respondent had failed to minimize the possibility of releases of hazardous waste or hazardous waste constituents in violation of 35 Ill. Admin. Code § 725.131.

Count 5: Failure to Maintain Required Aisle Space

92. Complainant reincorporates and alleges Paragraphs 1 through 57 of this CAFO as though fully set forth herein.

93. Pursuant to 35 Ill. Admin. Code § 725.135, the owner or operator of a TSDF must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.

94. At the time of the inspection, Respondent was the owner or operator of a TSDF.

95. At the time of the inspection, two of Respondent's three hazardous waste storage areas, had inadequate aisle space between hazardous waste preventing unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency.

96. Respondent's failure to maintain and operate the facility to maintain necessary aisle space was a violation of 35 Ill. Admin. Code § 725.135.

Count 6: Failure to Comply with the Design and Installation of New Tank Systems

97. Complainant reincorporates and alleges Paragraphs 1 through 57 of this CAFO as though fully set forth herein.

98. Pursuant to 35 Ill. Admin. Code § 725.292, the owner or operator of a new tank

system or component must ensure that the foundation, structural support, seams, connections, and pressure controls (if applicable) are adequately designed and that the tank system has sufficient structural strength, compatibility with the wastes to be stored or treated, and corrosion protection so that it will not collapse, rupture, or fail. The owner or operator must obtain a written assessment reviewed and certified by a qualified Professional Engineer, in accordance with 35 Ill. Adm. Code § 702.126(d), attesting that the system has sufficient structural integrity and is acceptable for the storing and treating of hazardous waste.

99. At the time of the inspection, Respondent did not have a certified written tank assessment for the hazardous waste frac tank, T-6902, as required by 35 Ill. Admin. Code § 725.292(a).

100. At the time of the inspection, Respondent did not have a Professional Engineer inspection certification for the hazardous waste frac tank, T-6902, as required by 35 Ill. Admin. Code § 725.292(b).

101. At the time of the inspection, Respondent was unable to demonstrate that its hazardous waste frac tank, T-6902, and its ancillary equipment had undergone tightness testing prior to being placed in use, as required by 35 Ill. Admin. Code § 725.292(d).

102. At the time of the inspection, Respondent was unable to provide a written assessment, including the information required by 35 Ill. Admin. Code § 725.292(a)(3), to ensure the integrity of the hazardous waste frac tank (T-6902) system and provide the type and degree of corrosion protection by an independent corrosion expert, as required by 35 Ill. Admin. Code § 725.292(f).

103. At the time of the inspection, Respondent did not have on file at the facility the

written statements and certification statement by those persons required to certify and design the hazardous waste frac tank (T-6902) system and supervise installation, as required under 35 Ill. Admin. Code § 725.292(g).

104. Respondent's failure to produce and maintain the documentation required by 35 Ill. Admin. Code § 725.292(a) to (g), as alleged in Paragraphs 98 to 103, above, was each a separate violation of the relevant provisions of 35 Ill. Admin. Code § 725.292 (a) to (g).

Count 7: Failure to Contain and Detect Releases from Tank Systems

105. Complainant reincorporates and alleges Paragraphs 1 through 57 of this CAFO as though fully set forth herein.

106. Pursuant to 35 Ill. Admin. Code § 725.293, a new or existing tank system or component must meet the requirements of 35 Ill. Admin. Code § 725.293 prior to being put into service.

107. Title 35 Ill. Admin. Code § 725.293(a) to (c) requires secondary containment systems that meet the requirements of § 725.293 to prevent the release of hazardous waste or hazardous constituents to the environment.

108. At the time of the inspection, Respondent did not have a secondary containment system around its tank T-6902.

109. At the time of the inspection, Respondent was unable to demonstrate that the secondary containment included one of the following specified devices: 1) a liner (external to the tank); 2) a vault; 3) a double-walled tank; or 4) an equivalent device as approved by the Board in an adjusted standards proceeding, as required by 35 Ill. Admin. Code § 725.293(d).

110. At the time of the inspection, Respondent was unable to demonstrate that it

visually inspected ancillary equipment for leaks on a daily basis and otherwise met the requirements of 35 Ill. Admin. Code § 725.293(f)(1) to (4). During the inspection, Inspectors observed a release from the ancillary equipment.

111. At the time of the inspection, Respondent was unable to produce any documentation meeting the requirements of 35 Ill. Admin. Code § 725.293(i)(2) to (4) regarding its assessment of tank integrity or ensuring that it has complied with 35 Ill. Admin. Code § 725.296 if unfit for use.

112. Respondent placed tank T-6902 into service as a hazardous waste tank and failed to meet the requirements under 35 Ill. Admin. Code § 725.293, in violation of 35 Ill. Admin. Code § 725.293(a)(1), (b), (c), (d), (f), and (i)(2) to (4).

Count 8: Failure to Meet General Operating Requirements of Tank Systems

113. Complainant reincorporates and alleges Paragraphs 1 through 57 of this CAFO as though fully set forth herein.

114. Pursuant to 35 Ill. Admin. Code § 725.294(a), hazardous waste or treatment reagents must not be placed in the tank system if they could cause the tank, its ancillary equipment, or the secondary containment system to rupture, leak, corrode, or otherwise fail.

115. At the time of the inspection, Respondent was placing a corrosive hazardous waste meeting the characteristic for D002 into hazardous waste frac tank T-6902 without a written assessment that included the information required under 35 Ill. Admin. Code § 725.292(a)(3) in order to ensure the integrity of the tank system and provide the type and degree of corrosion protection by an independent corrosion expert.

116. Respondent, therefore, violated 35 Ill. Admin. Code § 725.294(a) by failing to

ensure that D002 hazardous waste placed in the tank would not cause the tank system to rupture, leak, corrode, or otherwise fail.

117. Pursuant to 35 Ill. Admin. Code § 725.294(b)(1) and (2), the owner or operator must use appropriate controls and practices to prevent spills and overflows from tank or secondary containment systems. These include spill prevention controls and overfill prevention controls.

118. At the time of the inspection, Respondent did not have spill prevention controls in place or appropriate overfill prevention that would prevent or capture a release, in violation of 35 Ill. Admin. Code § 725.294(b)(1) and (2).

Count 9: Failure to complete tank inspections

119. Complainant reincorporates and alleges Paragraphs 1 through 57 of this CAFO as though fully set forth herein.

120. Pursuant to 35 Ill. Admin. Code § 725.295(a), (b), and (e), the owner or operator must inspect the following, where present, at least once each operating day: overfill/spill equipment; above ground portions of the tank system; and the construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment system. The owner or operator must also inspect ancillary equipment that is not provided with secondary containment at least once each operating day.

121. Pursuant to 35 Ill. Admin. Code § 725.295(g), the owner or operator must document in the operating record of the facility an inspection of those items in 35 Ill. Admin. Code § 725.295(a) and (b).

122. At the time of the inspection, Respondent was unable to provide inspection

records for the hazardous waste tank, T-6902, in violation of 35 Ill. Admin. Code § 725.295(a), (b), (e), and (g).

Count 10: Failure to comply with the purpose and implementation of contingency plan

123. Complainant reincorporates and alleges Paragraphs 1 through 57 of this CAFO as though fully set forth herein.

124. Pursuant to 35 Ill. Admin. Code § 725.151(b), the provisions of a contingency plan must be carried out immediately whenever there is a fire, explosion, or release of hazardous waste or hazardous waste constituents that could threaten human health or the environment.

125. Respondent's listed contingency plan states, "Whenever there is a release, fire, or explosion the Emergency Coordinator will immediately identify the character, exact source, amount, and the extent of any released materials."

126. At the time of the inspection, Inspectors identified at least five releases of waste throughout the Respondent's warehouse and manufacturing facility. Respondent had not identified the character or exact source of the material or made a determination on whether it was hazardous on any of those releases, in violation of 35 Ill. Admin. Code § 725.151(b).

Count 11: Failure to have the required content of a contingency plan

127. Complainant reincorporates and alleges Paragraphs 1 through 57 of this CAFO as though fully set forth herein.

128. Pursuant to 35 Ill. Admin. Code § 725.152(d), the contingency plan must list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator, and this list must be kept up to date.

129. At the time of the inspection, the individual that Respondent identified as the

emergency coordinator was not listed in the contingency plan.

130. Pursuant to 35 Ill. Admin. Code § 725.151(e), the contingency plan must include a list of all emergency equipment at the facility where this equipment is required. In addition, the plan must include the location and a physical description of each item on the list and a brief outline of its capabilities.

131. At the time of the inspection, the Respondent identified its January 2022 contingency plan as the current active plan for the facility. The contingency plan did not include information on where emergency equipment was located.

132. Pursuant to 35 Ill. Admin. Code § 725.151(f), the contingency plan must include an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. This plan must describe signals to be used to begin evacuation, evacuation routes, and alternate evacuation routes (in cases where the primary routes could be blocked by releases of hazardous waste or fires).

133. At the time of the inspection, the Respondent identified its January 2022 contingency plan as the current active plan for the facility. The plan did not include identification of evacuation routes or alternative evacuation routes.

134. Respondent, therefore, violated the requirements of 35 Ill. Admin. Code §§ 725.151(d), (e), and (f) by failing to include the required information in its contingency plan.

Count 11: Failure to amend contingency plan

135. Complainant reincorporates and alleges Paragraphs 1 through 57 of this CAFO as though fully set forth herein.

136. Pursuant to 35 Ill. Admin. Code §§ 725.154(c) and (d), the contingency plan must

be reviewed and immediately amended, if necessary, whenever the following occurs: c) the facility changes—in its design, construction, operation, maintenance or other circumstances—in a way that materially increases the potential of fires, explosions, or releases of hazardous waste or hazardous waste constituents or changes the response necessary in an emergency; or d) the list of emergency coordinators changes.

137. The Respondent identified its January 2022 contingency plan as the current active plan for the facility.

138. At the time of the inspection, Respondent identified three central accumulations areas at its facility, but its contingency plan only identified two central accumulation areas.

139. At the time of the inspection, Respondent's stated emergency coordinator was not identified in the contingency plan.

140. Respondent, therefore, violated 35 Ill. Admin. Code §§ 725.154(c) and (d) by failing to amend the contingency plan due to revised operations and personnel changes at the facility.

Count 12: Failure to complete inspections of hazardous waste areas

141. Complainant reincorporates and alleges Paragraphs 1 through 57 of this CAFO as though fully set forth herein.

142. Pursuant to 35 Ill. Admin. Code § 725.274, the owner or operator must inspect areas where containers are stored at least weekly. The owner or operator must look for leaking containers and for deterioration of containers caused by corrosion or other factors.

143. At the time of the inspection, Respondent was unable to confirm it had completed weekly inspections of hazardous waste areas prior to October 6, 2022, in violation of 35 Ill. Admin. Code § 725.274.

Count 13: Failure to make hazardous waste determinations

144. Complainant reincorporates and alleges Paragraphs 1 through 57 of this CAFO as though fully set forth herein.

145. Pursuant to 35 Ill. Admin. Code § 722.111, a generator must determine whether its waste is hazardous.

146. At the time of the inspection, the Respondent had not made a determination whether the waste it generated in eight containers in the central accumulation areas and four containers in the customer returns area was hazardous, in violation of 35 Ill. Admin. Code § 722.111.

Count 14: Failure to label universal waste

147. Complainant reincorporates and alleges Paragraphs 1 through 57 of this CAFO as though fully set forth herein.

148. Pursuant to 35 Ill. Admin. Code § 733.114(e), a small quantity handler of universal waste must label or clearly mark each lamp or a container or package in which such lamps are contained with any one of the following phrases: “Universal Waste-Lamps,” “Waste Lamps” or “Used Lamps.”

149. At the time of the inspection, the Respondent had a container of universal waste lamps that was not labeled in accordance with 35 Ill. Admin. Code § 733.114(e).

Count 15: Failure to obtain a RCRA Permit

150. Complainant reincorporates and alleges Paragraphs 1 through 57 of this CAFO as though fully set forth herein.

151. Pursuant to 35 Ill Admin. Code §§ 703.121(a) and (b), 703.180(c), and 705.121(a),

no person may conduct any hazardous waste storage, hazardous waste treatment, or hazardous waste disposal operation without a RCRA permit for Hazardous Waste Management facility; an owner or operator of an HWM unit must have permits during the active life of the unit.

152. At the time of the inspection, Respondent stored at least one hazardous waste container in a central accumulation area that was not generated by the Respondent, in violation of 35 Ill Admin. Code §§ 703.121(a) and (b), 703.180(c), and 705.121(a).

Civil Penalty

153. 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 \$423,308.60. In determining the penalty amount, Complainant took into account 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.

154. Respondent agrees to pay a civil penalty in the amount of \$423,308.60 ("Assessed Penalty") within thirty (30) days after the date the Final Order ratifying this Agreement is filed with the Regional Hearing Clerk ("Filing Date").

155. 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>.

156. When making a payment, Respondent shall:

- a. Identify every payment with Respondent's name and the docket number of this Agreement, RCRA-05-2025-0025,
- 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

Andrea Dierich
Land Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency, Region 5
dierich.andrea@epa.gov and
R5LEcab@epa.gov

David Duckett
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
duckett.david@epa.gov

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.

157. 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 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.

158. 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.

159. 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.

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

161. 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 Milton Wise at EPA's Cincinnati Finance Center at wise.milton@epa.gov, within 30 days after the effective date of this CAFO, 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 Center with Respondent's TIN, via email, within five (5) days of Respondent's receipt of a TIN issued by the IRS.

General Provisions

162. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: duckett.david@epa.gov (for Complainant), and Katie.roek@ecolab.co (for Respondent). Respondent understands that the CAFO will become publicly available upon filing.

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

164. 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.

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

166. Respondent certifies that it is complying fully with all requirements of 40 C.F.R. Parts 260 through 279.

167. 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).

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

169. 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.

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

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

Ecolab, Respondent

06/05/2025

Date

Jandeen Boone

Ms. Jandeen Boone
Executive Vice President, General Counsel, and
Secretary
Ecolab, Inc.

United States Environmental Protection Agency, Complainant

Michael D. Harris
Division Director
U.S. EPA Region 5 Enforcement and Compliance
Assurance Division

In the Matter of:
Ecolab
Docket No. RCRA-05-2025-0025

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