



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

NOV - 9 2018

SENT VIA E-MAIL

REPLY TO THE ATTENTION OF:

Mr. Jeff Christensen
Vice President
Südpack Oak Creek Corporation
9905 South Ridgeview Drive
Oak Creek, Wisconsin 53154

Re: Consent Agreement and Final Order
Südpack Oak Creek Corporation
EPA ID Number: WID091783647
Docket Number: RCRA-05-2019-0002

Dear Mr. Christensen:

Attached, please find a signed, fully-executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The original was filed on November 9, 2018, with the Regional Hearing Clerk (RHC).

Please pay the civil penalty in the amount of \$16,740 in the manner prescribed in paragraphs 34-39 of the CAFO and reference all checks with the Respondent's site name and docket number RCRA-05-2019-0002.

Thank you for your cooperation in resolving this matter. If you have any questions or concerns regarding this matter, please contact Brenda Whitney, of my staff, at 312-353-4796 or at whitney.brenda@epa.gov.

Sincerely,

Julie Morris, Acting Chief
RCRA Branch

Attachments

cc: Jeff Christensen (jeff.christensen@suedpack.com) (w/CAFO)
Michael Ellenbecker, WDNR (Michael.Ellenbecker@wisconsin.gov) (w/CAFO)
Steven Sisbach, WDNR (Steven.Sisbach@wisconsin.gov) (w/CAFO)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:)	Docket No.: <u>RCRA-05-2019-0002</u>
)	
Südpack Oak Creek Corporation,)	Proceeding to Commence and Conclude
Oak Creek, Wisconsin)	an Action to Assess a Civil Penalty
RCRA Facility No.: WID091783647)	Under Section 3008(a) of the Resource
)	Conservation and Recovery Act,
<u>Respondent.</u>)	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 Land and Chemicals Division, Region 5, United States Environmental Protection Agency (U.S. EPA).

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 Südpack Oak Creek Corporation, Oak Creek, Wisconsin, 53134, 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.

11. Respondent certifies it will comply fully with RCRA, 42 U.S.C. §§ 6901 – 6992k, and the regulations at 40 C.F.R. Parts 260 – 279, by April 30, 2019, pursuant to this CAFO's Compliance Order.

Statutory and Regulatory Background

12. U.S. EPA 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, of RCRA, 42 U.S.C. §§ 6921 – 6927, and 6934.

13. 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. 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).

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 \$97,229.00 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 was and is a "person" as defined by Wisconsin Administrative Code § NR 660.10(90).

17. Respondent was the "owner" or "operator," as defined by Wis. Admin. Code § NR 660.10(80) of a "facility," as defined by Wis. Admin. Code § NR 660.10(43), located at 9905 South Ridgeview Drive, Oak Creek, Wisconsin, 53134.

18. On June 21, 2016, U.S. EPA conducted an inspection of the facility.

19. The facility consisted of land and structures, other appurtenances, and improvements on the land to treat, store, and dispose of hazardous waste.

20. Respondent manufactured printed and laminated packaging.

21. At all times relevant to this CAFO, Respondent created solid wastes including spent

ink and spent cleaning solvent.

22. Respondent's processes at the facility produced hazardous wastes identified or listed at Wis. Admin. Code § NR 605.

23. Respondent was a "generator," as defined by Wis. Admin. Code § NR 662.10(50).

24. Respondent produced more than 1,000 kilograms (2,205 pounds) of hazardous waste each calendar month prior to the inspection, and was a large quantity generator.

25. Respondent was subject to the regulations promulgated pursuant to Subtitle C of RCRA, 42 U.S.C. §§ 6921 - 6939e, or the analogous Wisconsin regulations as part of the applicable state hazardous waste management program for the state of Wisconsin, or both.

26. The State of Wisconsin never issued to Respondent a permit or license to treat, store, or dispose of hazardous waste at the facility.

27. Respondent never had interim status for the treatment, storage, or disposal of hazardous waste at the facility.

28. Pursuant to 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 or license is prohibited.

29. Pursuant to Wis. Admin. Code § NR 662.034(1) - (3)], 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 license or interim status, provided that the generator complies with all applicable conditions of Wis. Admin. Code § NR 662.034(1) - (3).

30. If the conditions of Wis. Admin. Code § NR 662.034(1) - (3) are not met, then the generator must apply for an operating permit or license under Wis. Admin. Code § NR 670.

31. Respondent failed to demonstrate that its hazardous waste storage tank complied with WAC NR Chapter 662, in violation of WAC NR Chapter 665.

32. Therefore, Respondent failed to comply with the conditions of Wis. Admin. Code § NR 662.034(1) - (3) necessary to exempt it from the requirement to obtain interim status or apply for and obtain a permit or license for the storage of hazardous waste.

33. Therefore, Respondent stored hazardous waste without a permit or license or interim status in violation of Wis. Admin. Code § NR 670 and Section 3005 of RCRA, 42 U.S.C. § 6925.

Civil Penalty

34. 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 \$16,740.00. In determining the penalty amount, Complainant considered the seriousness of the violation and any good faith efforts to comply with the applicable requirements, U.S. EPA's RCRA Civil Penalty Policy, dated June 23, 2003.

35. Within 30 days after the effective date of this CAFO, Respondent must pay a \$16,740.00 civil penalty for the RCRA violations by sending a cashier's or certified check, payable to the "Treasurer, United States of America," to.

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000
(for checks sent by regular U.S. mail); or,

U.S. Bank
Government Lockbox 979077 U.S. EPA Fines and Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101
(for checks sent by express mail).

The check must state the case title and docket number of this CAFO.

36. A transmittal letter stating Respondent's name, the case title, and the case docket number, must accompany the payment. Respondent must send a copy of the check and transmittal letter to:

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Brenda Whitney (LR-17J)
RCRA Branch
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Jeffery M. Trevino (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

37. This civil penalty is not deductible for federal tax purposes.

38. If Respondent does not timely pay the civil penalty, U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties, and the United States enforcement expenses for the collection action. The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action. U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties, and the United States enforcement expenses for the collection

action. The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

39. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

Compliance Order

40. Pursuant to its authority under section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and 40 C.F.R. § 22.37(b), Complainant also Orders Respondent to comply with all conditions and requirements governing the generation, storage, treatment and disposal of hazardous waste codified by the Wisconsin Administrative Code and 40 C.F.R. Parts 260 through 279. Specifically, Respondent must complete the following for its Plant 2 New Hazardous Waste Storage Tank System.

- a. Ensure and demonstrate its adequate design and structural integrity, in complete compliance with WAC NR 662.034(1)(a)2 and the applicable requirements of WAC NR 665.0192(1). This must include a written assessment reviewed and certified by a qualified Professional Engineer attesting that the system has sufficient structural integrity and is acceptable for the storing and treating of hazardous waste, in complete compliance with all of the conditions of WAC NR 662.034(1)(a)2, and with all of the applicable requirements of WAC NR 665.0192(1), and provided to Complainant.

- b. Ensure and demonstrate properly handling procedures were adhered to in order to prevent damage to it during installation, in compliance with WAC NR 662.034(1)(a)2 and the applicable requirements of WAC NR 665.0192(2).
- c. Test it and its Ancillary Equipment for tightness, prior to being covered, enclosed, or placed in use, in compliance with WAC NR 662.034(1)(a)2 and the applicable requirements of WAC NR 665.0192(4).
- d. Support and protect against physical damage and excessive stress due to its settlement, vibration, expansion or contraction, its ancillary equipment, in compliance with WAC NR 662.034(1)(a)2 and the applicable requirements of WAC NR 665.0192(5).
- e. Achieve and maintain on file at the facility written statements by those persons required to certify to its design, and supervise its installation, in compliance with WAC NR 662.034(1)(a)2 and the applicable requirements of WAC NR 665.0192(7).
- f. Design, install, and operate a Secondary Containment System for it, capable of detecting and collecting releases and accumulated liquids until the collected material is removed, in compliance with WAC NR 662.034(1)(a)2 and the applicable requirements of WAC NR 665.0193.
- g. Inspect, where present, at least once each day, data gathered from monitoring and leak detection equipment to ensure that it was operated according to its design, in compliance with WAC NR 662.034(1)(a)2 and the applicable requirements of WAC NR 665.0195(1) and (2) and 665.0195(7).
- h. Demonstrate that it complies with WAC NR 662.034(1)(a)2 and the applicable

requirements of WAC NR 665, Subchapter BB, Air Emissions for Equipment Leaks. This must include complete compliance with all of the conditions of WAC NR 662.034(1)(a)2, and complete compliance with all of the applicable recordkeeping requirements of WAC NR 665, Subchapter BB, Air Emissions for Equipment Leaks, and providing the records to Complainant.

- i. Demonstrate that it complies with WAC NR 662.034(1)(a)2 and the applicable requirements of WAC NR 665, Subchapter CC, Air Emission Standards for Tanks, Surface Impoundments and Containers. This must include complete compliance with all of the conditions of WAC NR 662.034(1)(a)2, and complete compliance with all of the applicable recordkeeping requirements of WAC NR 665, Subchapter CC, Air Emissions Standards for Tanks, Surface Impoundments and Containers, and providing the records to Complainant.
- j. Submit to EPA, by April 30, 2019, at the following address, all written and certified statements, reports, submissions, and notifications required by law, and signed and dated documentation to demonstrate Respondent complied completely with this Compliance Order:

Brenda Whitney
RCRA Branch
Land and Chemicals Division
Region 5
United States Environmental Protection Agency
77 West Jackson Boulevard (LR-17J)
Chicago, Illinois 60604-3590.

If Respondent fails to comply with this Compliance Order, Complainant may assess against Respondent a civil penalty for each day of each violation of this Compliance Order, pursuant to section 3008(c) of RCRA, 42 U.S.C. § 6928(c).

General Provisions

41. Consistent with the “Standing Order Authorizing E-Mail Service of Order and Other Documents Issued by the Regional Administrator or Regional Judicial Officer Under the Consolidated Rules,” dated March 27, 2015, the parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: trevino.jeffery@epa.gov (for Complainant), and jeff.christensen@suedpack.com (for Respondent). The parties waive their right to service by the methods specified in 40 C.F.R. § 22.6.

42. This CAFO resolves only Respondent’s liability for federal civil penalties for the violations and facts alleged in the CAFO.

43. 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.

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

45. 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).

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

47. 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.

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

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

**In the Matter of: Südpack Oak Creek Corporation, Oak Creek, Wisconsin.
Docket Number: RCRA-05-2019-0002**

Südpack Oak Creek Corporation, Oak Creek, Wisconsin, Respondent

Date: 10-23-18



Jeff Christensen
Vice President
Sudpack USA

Region 5, U.S. Environmental Protection Agency, Complainant

Date: 10-8-18



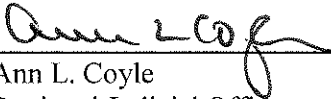
Tinka G. Hyde
Division Director
Land and Chemicals Division

In the Matter of: **Sidpack Oak Creek Corporation**
RCRA Facility No.: **WID 091783647**
Docket No.: **RCRA-05-2019-0002**

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.

11/9/19
Date


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

In the Matter of: **Südpack Oak Creek Corporation**
RCRA Facility No.: **WID 091783647**
Docket No.: **RCRA-05-2019-0002**

Certificate of Service

I certify that I served a true and correct copy of the foregoing Consent Agreement and Final Order, Docket Number **RCRA-05-2019-0002**, which was filed on November 9, 2018, in the following manner to the addresses:

Copy by e-mail to

Respondent:

(Authorized in CAFO)

Jeff Christensen, Vice-President

jeff.christensen@suedpack.com

9905 South Ridgeview Drive

Oak Creek, Wisconsin 53154

Copy by e-mail to

Attorney for Complainant:

Jeffery M. Trevino

trevino.jeffery@epa.gov

Copy by e-mail to

Case Assignee:

Brenda Whitney

whitney.brenda@epa.gov

Copy by e-mail to

Regional Judicial Officer:

Ann Coyle

coyle.ann@epa.gov

Date

November 9, 2018


LaDawn Whitehead

Regional Hearing Clerk

U.S. Environmental Protection Agency, Region 5