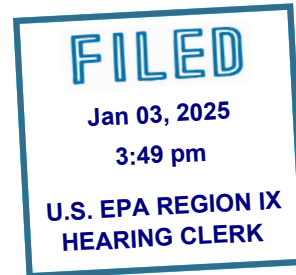


Suzanne Andrews
Regional Counsel
United States Environmental Protection Agency, Region IX

Catherine Schluter
Assistant Regional Counsel
United States Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, California 94105
(415) 972-3911
schluter.catherine@epa.gov

Attorneys for Complainant



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION IX
75 HAWTHORNE STREET
SAN FRANCISCO, CALIFORNIA 94105**

In the Matter of:)	Docket No. CAA-09-2025-0028
)	
Carolina Logistics Inc.)	CONSENT AGREEMENT AND FINAL
)	ORDER PURSUANT TO 40 C.F.R.
)	§§ 22.13 AND 22.18
Respondent.)	
_____)	

I. CONSENT AGREEMENT

The United States Environmental Protection Agency, Region IX (“EPA”), and Carolina Logistics Inc. (“Respondent”) agree to settle this matter and consent to the entry of this Consent Agreement and Final Order (“CAFO”), which simultaneously commences and concludes this matter in accordance with 40 C.F.R. §§ 22.13 and 22.18.

A. AUTHORITY, JURISDICTION, AND PARTIES

1. This is a civil administrative action brought under Section 113(d) of the Clean Air Act (the “Act”), 42 U.S.C. § 7413(d).
2. Complainant is the Director of the Enforcement and Compliance Assurance Division,

EPA Region IX, who has been duly delegated the authority to initiate and settle civil administrative penalty proceedings under Section 113(d) of the Act.

3. Respondent is a for hire trucking firm that dispatches diesel-fueled vehicles to California and other states.

4. Pursuant to Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), EPA and the United States Department of Justice jointly determined that this matter, which involves alleged violations that occurred more than one year before the initiation of this proceeding, is appropriate for an administrative penalty assessment.

5. The regulations at issue in this action have been incorporated into the federally approved and federally enforceable California State Implementation Plan (“SIP”). In accordance with the notice requirements of Section 113(a)(1) of the Act, 42 U.S.C. § 7413(a)(1), EPA issued a Finding and Notice of Violation (“NOV”) to Respondent on March 4, 2024, and provided a copy of the NOV to the California Air Resources Board (“CARB”). The NOV provided notice to the Respondent and to CARB that EPA found that the Respondent committed alleged violations described in Section I.C of this CAFO and provided the Respondent an opportunity to confer with EPA.

B. STATUTORY AND REGULATORY AUTHORITY

6. Pursuant to Section 107(d) of the Act, 42 U.S.C. § 7407(d), the Administrator promulgated lists of attainment status designations for each air quality control region (“AQCR”) in every state. These lists identify the attainment status of each AQCR for each of the criteria pollutants. The attainment status designations for California AQCRs are listed at

40 C.F.R. § 81.305.

7. There are multiple AQCRs designated as nonattainment for fine particulate matter (PM_{2.5}) and ozone in California. See 40 C.F.R. § 81.305.

8. Section 110(a) of the Act, 42 U.S.C. § 7410(a), requires that all states adopt SIPs that provide for the implementation, maintenance, and enforcement of primary and secondary air quality standards.

9. A person's failure to comply with any approved regulatory provision of a SIP renders the person in violation of an applicable implementation plan and subject to enforcement under Section 113(a)(1) of the Act, 42 U.S.C. § 7413(a)(1).

Title 13, Section 2025 of the California Code of Regulations: Truck and Bus

Regulation

10. In accordance with Resolution 10-44 (December 2010), CARB adopted amendments to the "Regulation to Reduce Emissions of Diesel Particulate Matter, Oxides of Nitrogen and Other Criteria Pollutants from In-Use Heavy-Duty Diesel-Fueled Vehicles," codified at title 13, Section 2025 of the California Code of Regulations (the "Truck and Bus Regulation" or "TBR").

11. The EPA incorporated the TBR as submitted by CARB into the California SIP, effective May 4, 2012. See 77 Fed. Reg. 20308 (April 4, 2012).

12. As stated in Section 2025(a) of the TBR, the purpose of the regulation is "to reduce emissions of diesel particulate matter (PM), oxides of nitrogen (NO_x) and other criteria pollutants from in-use diesel-fueled vehicles."

13. Pursuant to Section 2025(b) of the TBR, the TBR "applies to any person, business, ...

that owns or operates, leases, or rents, affected vehicles that operate in California. . . .

Affected vehicles are those that operate on diesel-fuel, dual-fuel, or alternative diesel-fuel that are registered to be driven on public highways, were originally designed to be driven on public highways whether or not they are registered, . . . and have a manufacturer's gross vehicle weight rating (GVWR) greater than 14,000 pounds (lbs)."

14. Section 2025(d)(28) of the TBR defines "Fleet" as "one or more vehicles, owned by a person, business, or government agency, traveling in California and subject to this regulation. . . ."

15. Section 2025(d)(42) of the TBR defines "Motor Carrier" as "the same as defined in California Vehicle Code Section 408 for fleets other than those that are comprised entirely of school buses. . . ."

16. Section 408 of the California Vehicle Code defines "Motor Carrier" as "the registered owner, lessee, licensee, or bailee of any vehicle set forth in Section 34500, who operates or directs the operation of any such vehicle on either a for-hire or not-for-hire basis."

17. Section 2025(d)(47) of the TBR defines "Person" as "an individual, corporation, business trust, estate, trust, partnership, Limited Liability Company, association, joint venture, government, governmental subdivision, agency, or instrumentality, public corporation, or any other legal or commercial entity."

18. Section 2025(s)(4) of the TBR provides that motor carriers or brokers must maintain "bills of lading and other documentation identifying the motor carrier or broker who hired or dispatched the vehicle and the vehicle dispatched."

19. Section 2025(x)(2) of the TBR provides that “[a]ny in-state or out-of-state motor carrier, California broker, or any California resident who operates or directs the operation of any vehicle subject to this regulation shall verify that each hired or dispatched vehicle is in compliance with the regulation and comply with the record keeping requirements of section 2025(s)(4).”

C. ALLEGATIONS

20. At all times relevant to this CAFO, Respondent was a “Person” as that term is defined under Section 2025(d)(47) of the TBR.

21. At all times relevant to this CAFO, Respondent was a “Motor Carrier” as that term is defined under Section 2025(d)(42) of the TBR.

22. At all times relevant to this CAFO, the TBR applied to Respondent.

23. Within the period of January 1, 2020, to May 5, 2023, Respondent hired or dispatched nine (9) vehicles subject to the TBR and failed to verify that each hired or dispatched vehicle was in compliance with the TBR.

24. Within the period of January 1, 2020, to May 5, 2023, Respondent violated Section 2025(x)(2) of the TBR by failing to verify that each of the nine (9) vehicles subject to the TBR that Respondent hired or dispatched was in compliance with the TBR.

D. RESPONDENT’S ADMISSIONS

25. In accordance with 40 C.F.R. § 22.18(b)(2) and for the purpose of this proceeding, Respondent: (i) admits that EPA has jurisdiction over the subject matter alleged in this CAFO and over Respondent; (ii) neither admits nor denies the specific factual allegations contained

in Section I.C of this CAFO; (iii) consents to the assessment of the civil administrative penalty under Section I.E of this CAFO; (iv) waives any right to contest the allegations set forth in Section I.C of this CAFO; and (v) waives the right to appeal the proposed Final Order contained in this CAFO.

26. By signing this Consent Agreement, 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.

27. Respondent agrees that the time period from the date of Respondent's signature on this Consent Agreement until the payment of the Civil Penalty as stated in Paragraphs 28 through 34 (the "Tolling Period") will not be included in computing the running of any statute of limitations potentially applicable to any action brought by EPA on any claims (the "Tolled Claims") set forth in Section I.C of this CAFO. Respondent will not assert, plead, or raise in any fashion, whether by answer, motion or otherwise, any defense of laches, estoppel, or waiver, or other similar equitable defense based on the running of any statute of limitations or the passage of time during the Tolling Period in any action brought on the Tolled Claims.

E. CIVIL ADMINISTRATIVE PENALTY

28. Respondent agrees to pay a civil penalty in the amount of FIFTY-EIGHT THOUSAND DOLLARS (\$58,000) ("Assessed Penalty") within thirty (30) days after the date the Final Order ratifying this Agreement is filed with the Regional Hearing Clerk ("Filing Date").

29. 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>.

30. When making a payment, Respondent shall:

a. Identify every payment with Respondent's name and the docket number of this CAFO, CAA-09-2025-0028,

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
Office of Regional Counsel
U.S. Environmental Protection Agency, Region IX
R9HearingClerk@epa.gov

Erika Pauley
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region IX
pauley.erika@epa.gov

and

U.S. Environmental Protection Agency
Cincinnati Finance Center
Via electronic mail to:
CINWD_AcctsReceivable@epa.gov

"Proof of payment" means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent's

name.

- c. If Respondent fails to pay in full the Assessed Penalty within thirty (30) days of the Filing Date, then Respondent shall pay to EPA the stipulated penalty of ONE THOUSAND DOLLARS (\$1,000.00) for each day the default continues, in addition to the assessed penalty, upon written demand by EPA. Stipulated penalties shall accrue until the Assessed Penalty and all accrued stipulated penalties are paid and shall become due and payable upon EPA's written request.

31. Interest, Charges, and Penalties on Late Payments. Pursuant to 42 U.S.C. § 7413(d)(5), 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay any portion of the Assessed Penalty per this Agreement, the entire unpaid balance of the Assessed Penalty and all accrued interest shall become immediately due and owing, and EPA is authorized to recover 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. Per 42 U.S.C. § 7524(c)(6), interest will be assessed pursuant to 26 U.S.C. § 6621(a)(2), that is the Internal Revenue Service ("IRS") standard underpayment rate, equal to the Federal short-term rate plus 3 percentage points.

- b. Handling Charges. The United States' enforcement expenses including, but not limited to, attorneys' fees and costs of handling collection.
- c. Late Payment Penalty. A ten percent (10%) quarterly non-payment penalty.

32. 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 CAFO, 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 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 EPA or engaging in programs EPA sponsors or funds, per 40 C.F.R. § 13.17.
- d. Request that the Attorney General bring a civil action in the appropriate district court to enforce the Final Order and recover the full remaining balance of the Assessed Penalty, in addition to interest and the amounts described above, pursuant to 42 U.S.C. § 7413(d)(5). In any such action, the validity,

In the Matter of: Carolina Logistics Inc. 9
Consent Agreement and Final Order

amount, and appropriateness of the Assessed Penalty and Final Order shall not be subject to review.

33. 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.

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

F. TAX REPORTING

35. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, 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 EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor’s violation of any law or the investigation or inquiry into the payor’s potential violation of any law, including amounts paid for “restitution or remediation of property” or to come “into compliance with a law.” EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number (“TIN”), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. In order to provide EPA with sufficient information to enable it to fulfill these obligations, EPA herein requires,

and Respondent herein agrees, that:

- a. Respondent shall complete an IRS Form W-9 (“Request for Taxpayer Identification Number and Certification”), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
- b. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent’s correct TIN or that Respondent has applied and is waiting for issuance of a TIN;
- c. Respondent shall email its completed Form W-9 to EPA’s Cincinnati Finance Center at sherrer.dana@epa.gov within 30 days after the Final Order ratifying this Agreement is filed, and EPA recommends encrypting IRS Form W-9 email correspondence; and
- d. In the event that Respondent has certified in its completed IRS Form W-9 that it has applied for a TIN and that TIN has not been issued to Respondent within 30 days after the Effective Date, then Respondent, using the same email address identified in the preceding sub-paragraph, shall further:
 - i. Notify EPA’s Cincinnati Finance Center of this fact, via email, within 30 days after the 30 days after the effective date of this CAFO per Paragraph 40; and
 - ii. Provide EPA’s Cincinnati Finance Center with Respondent’s TIN, via email, within five (5) days of Respondent’s issuance and receipt of the TIN.

G. CERTIFICATION OF COMPLIANCE

36. In executing this CAFO, Respondent certifies that, to its knowledge, it is currently in compliance with the TBR.

H. RETENTION OF RIGHTS

37. In accordance with 40 C.F.R. § 22.18(c), this CAFO only resolves Respondent's liability for federal civil penalties for the violations and facts specifically alleged in Section I.C of the CAFO. Nothing in this CAFO is intended to or shall be construed to resolve (i) any civil liability for violations of any provision of any federal, state, or local law, statute, regulation, rule, ordinance, or permit not specifically alleged in Section I.C of the CAFO; or (ii) any criminal liability. EPA specifically reserves any and all authorities, rights, and remedies available to it (including, but not limited to, injunctive or other equitable relief or criminal sanctions) to address any violation of this CAFO or any violation not specifically alleged in Section I.C of the CAFO.

38. This CAFO does not exempt, relieve, modify, or affect in any way Respondent's duty to comply with all applicable federal, state, and local laws, regulations, rules, ordinances, and permits.

I. ATTORNEY'S FEES AND COSTS

39. Each party shall bear its own attorneys' fees, costs, and disbursements incurred in this Proceeding.

J. EFFECTIVE DATE

40. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CAFO shall be effective on the date that the Final Order contained in this CAFO, having been approved and issued by either the Regional Judicial Officer or Regional Administrator, is filed.

K. BINDING EFFECT


41. The undersigned representative of EPA and the undersigned representative of Respondent each certifies that he or she is fully authorized to enter into the terms and conditions of this CAFO and to bind the party he or she represents to this CAFO.

42. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns.

FOR RESPONDENT, CAROLINA LOGISTICS INC.:

12/3/24

DATE


Name: Vitaliy Svirhun
Title: President

FOR COMPLAINANT, EPA REGION IX:

DATE

AMY MILLER-
BOWEN

Digitally signed by AMY
MILLER-BOWEN
Date: 2024.12.30
08:48:57 -08'00'

Amy C. Miller-Bowen
Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region IX

In the Matter of: Carolina Logistics Inc. 13
Consent Agreement and Final Order

II. FINAL ORDER

Complainant, EPA, and Respondent, Carolina Logistics Inc., having entered into the foregoing Consent Agreement,

IT IS HEREBY ORDERED that this CAFO (Docket No. CAA-09-2025-0028) be entered, and that Respondent shall pay a civil administrative penalty in the amount of FIFTY-EIGHT THOUSAND DOLLARS (\$58,000) and comply with the terms and conditions set forth in the Consent Agreement. This Consent Agreement and Final Order shall become effective upon filing.

**STEVEN
JAWGIEL**

Digitally signed by
STEVEN JAWGIEL
Date: 2025.01.03
12:41:36 -08'00'

Steven Jawgiel

Regional Judicial Officer

U.S. Environmental Protection Agency, Region IX

CERTIFICATE OF SERVICE

This is to certify that the fully executed Consent Agreement and Final Order in the matter of Carolina Logistics, Inc.(Docket No. CAA-09-2025-0028) was filed with the Regional Hearing Clerk and that a true and correct copy of the same was served on the parties, via electronic mail, as indicated below:

RESPONDENT: Vitaliy Svirhun, President
Carolina Logistics Inc.
4450 Parris Bridge Road
Boiling Springs, SC 29316
Vitaliy@carolinalogisticsinc.com

COMPLAINANT: Catherine Schluter Assistant Regional
Counsel U.S. EPA, Region IX
75 Hawthorne Street
San Francisco, CA 94105
Schluter.Catherine@epa.gov

Grace Elam
Regional Hearing Clerk
U.S. EPA, Region IX