

FILED

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
DALLAS, TX

AUG 24 AM 11:44  
REGIONAL HEARING CLERK  
EPA REGION VI

IN THE MATTER OF:

American Recovery, L.L.C.

RESPONDENT

§  
§  
§  
§  
§  
§  
§  
§  
§

Consent Agreement and Final Order  
USEPA Docket No. RCRA-06-2021-0926

---

**CONSENT AGREEMENT AND FINAL ORDER**

**I. PRELIMINARY STATEMENT**

1. This Consent Agreement and Final Order ("CAFO") is entered into by the United States Environmental Protection Agency, Region 6 ("EPA" or "Complainant") and Respondent, American Recovery, LLC ("Respondent" or "American Recovery") and concerns the facility located at 2296 Denley Road, Houma, LA 70363 ("the American Recovery Facility").
2. Notice of this action has been given to the State of Louisiana, under Section 3008(a)(2) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6928(a)(2).
3. For the purpose of these proceedings, Respondent admits the jurisdictional allegations herein; however, the Respondent neither admits nor denies the specific factual allegations contained in this CAFO. This CAFO states a claim upon which relief may be granted.
4. Respondent explicitly waives any right to contest the allegations or to appeal the proposed final order contained in this CAFO and waives all defenses that have been raised or could have been raised to the claims set forth in the CAFO.
5. The CAFO resolves only those violations which are alleged herein.

6. Respondent consents to the issuance of this CAFO as the most appropriate means of settling EPA's allegations without any adjudication of issues of law or fact, consents to the assessment and payment of the civil penalty in the amount and by the method set out in this CAFO, and consents to the compliance order in this CAFO.

## II. JURISDICTION

7. This CAFO is issued by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), as amended by the Hazardous and Solid Waste Amendments of 1984 and is simultaneously commenced and concluded through the issuance of this CAFO under 40 Code of Federal Regulations (C.F.R.) §§ 22.13(b) and 22.18(b)(2) and (3).
8. Respondent agrees to undertake and complete all actions required by the terms and conditions of this CAFO. In any action by EPA or the United States to enforce the terms of this CAFO, Respondent agrees not to contest the authority or jurisdiction of EPA to issue or enforce this CAFO and agrees not to contest the validity of this CAFO or its terms or conditions.

## III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

9. Respondent is a Corporation authorized to do business in the State of Louisiana.
10. Respondent is a "person" within the meaning of Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and Title 33 of the Louisiana Administrative Code (LAC) LAC 33:V.109<sup>1</sup>,

---

<sup>1</sup> On January 24, 1985, the State of Louisiana received final authorization for its base Hazardous Waste Management Program (50 FR 3348). Subsequent revisions have been made to the Louisiana Hazardous Waste Program and authorized by the EPA. Except as otherwise provided, all citations found within this order are to the "EPA-Approved Louisiana Statutory and Regulatory Requirements Applicable to the Hazardous Waste Management Program" dated November 2015, incorporated by reference under 40 C.F.R. § 272. 951(c)(1)(i) effective on December 26, 2018. 83 Fed. Reg. 66143 (December 26, 2018); 40 C.F.R. 272. 951: Louisiana State-Administered Program: Final Authorization. References and citations to the "EPA-Approved Louisiana Statutory and Regulatory Requirements Applicable to the Hazardous Waste Management Program" may vary slightly from the State of Louisiana's published version. The corresponding C.F.R. citations are also provided.

[40 C.F.R. § 260.10].

11. Respondent owns or operates the American Recovery Facility.
12. The American Recovery Facility operates in the recycling waste materials business within the Electric, Gas and Sanitary Services sector.
13. During the period from February through April 2020, EPA conducted a RCRA record review of the American Recovery Facility's activities as a generator of hazardous waste including a review of the information voluntarily provided to EPA by Respondent (the "Investigation").
14. During the Investigation, EPA discovered that Respondent, at a minimum, generated and offered for transport and treatment, certain hazardous wastes which were listed on the manifests as having the following waste codes:
  - A. Characteristic of Ignitability: D001 (Ignitability);
  - B. Characteristic of Corrosivity: D002 (Corrosive);
  - C. Characteristic of Reactivity: D003 (Reactive);
  - D. Characteristic for multiple toxicity waste: D018 (Benzene); D035 (Methyl ethyl ketone); D036 (Nitrobenzene); D039 (Tetrachloroethylene); and
  - E. F002 (Spent Halogenated Solvents).
15. The American Recovery Facility is a "facility" within the meaning of LAC 33: V.109, [40 C.F.R. § 260.10].
16. The waste stream identified in Paragraph 14 is "hazardous waste" as defined in LAC 33: V.4901.B, and 4903.E, [40 C.F.R. §§ 261.21, 261.22, 261.24, and 261.33].
17. During the Investigation, EPA determined that the American Recovery Facility had declared its generator status as a Small Quantity Generator on or about August 15, 2017.

18. From the Investigation, EPA determined that Respondent generated the hazardous waste stream identified in Paragraph 14 in quantities that exceeded the threshold amount of 1,000 kg/month for a Small Quantity Generator of hazardous waste under LAC 33:V.108, [40 C.F.R. Part 262], for the periods that such wastes remained onsite.
19. Respondent is a "generator" of "hazardous waste" as those terms are defined in LAC 33:V.109, [40 C.F.R. § 260.10].
20. As a generator of hazardous waste, Respondent is subject to Sections 3002 and 3010 of RCRA, 42 U.S.C. §§ 6922 and 6930, and the regulations set forth in Title 33 of LAC Part V, Chapters 1 through 51, [40 C.F.R Part 262 and 270].
21. The EPA conferred with Respondent regarding the violations alleged herein and provided opportunities for Respondent to submit additional information or materials, which established that the Respondent acted in good faith and that the Respondent complied with the vast majority of applicable regulatory requirements.

#### IV. VIOLATIONS

##### **Claim. 1 Notification Requirements**

22. The allegations in Paragraphs 1-21 are re-alleged and incorporated herein by reference.
23. Pursuant to LAC 33:V.1105.B, [42 U.S.C. § 6930(a)], a generator must notify the Office of Environmental Services within seven days if any of the information submitted in the application for the identification number changes.
24. As identified in Paragraph 18, Respondent generated hazardous waste above the threshold amount of a Small Quantity Generator during 2018.

25. Respondent did not file with EPA or Louisiana Office of Environmental Services an updated notification of its hazardous waste activities above that of a Small Quantity Generator at the American Recovery Facility during 2018, in violation of LAC 33:V.1105.B, [42 U.S.C. § 6930(a)].

**Claim. 2 Failure to Operate within Its Stated Generator Status**

26. The allegations in Paragraphs 1-21 are realleged and incorporated herein by reference.
27. Pursuant to LAC 33:V.1109.E.2. [40 C.F.R. § 262.34(b)], any person who generates in excess of 1,000 kilograms of hazardous waste in any given calendar month is a Large Quantity Generator of hazardous waste, and is subject to the permitting requirements as specified in LAC 33:V.Subpart 1.
28. During portions of 2018, the American Recovery Facility exceeded their declared Small Quantity Generator status and operated in some instances as a Large Quantity Generator in violation of one or more of the requirements for Large Quantity Generators under LAC 33:V.1109.E.2., [40 C.F.R. § 262.34(b)].

**Claim. 3 Failure to Make a Hazardous Waste Determination**

29. The allegations in Paragraphs 1-21 are realleged and incorporated herein by reference.
30. Pursuant to LAC 33:V.1103 [40 C.F.R. § 262.11], a person who generates a solid waste, as defined in LAC 33:V.109, shall determine if that waste is a hazard.
31. During a portion of 2018, the American Recovery Facility shipped a solid waste without determining if that waste was a hazard in violation of the requirements under LAC 33:V.1103 [40 C.F.R. § 262.11].

**V. COMPLIANCE ORDER**

32. Pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), Respondent is hereby ordered to take the following actions, and within ninety (90) calendar days of the effective date of this CAFO, Respondent shall provide in writing the following:

- A. Respondent shall certify that it has assessed all solid waste streams generated by the American Recovery Facility, determined accurate waste codes for identified solid waste streams, and has developed and implemented standard operating procedures ("SOPs") to ensure that Respondent is operating the American Recovery Facility in compliance with RCRA and the regulations promulgated thereunder, including, but not limited to, procedures for: (a) making hazardous waste determinations; (b) managing hazardous wastes; (c) reporting, transporting, and disposing of hazardous waste; (d) preparing its manifests; (e) meeting employee training requirements; (f) adequately preparing contingency plans and (g) meeting the requirements of the land disposal requirements;
- B. Respondent shall certify that it has accurately and adequately complied with its RCRA Section 3010 notification for the American Recovery Facility and within the prescribed time period; and
- C. Respondent shall provide, with its certification, a copy of Respondent's SOPs as described in subparagraph A above.
- D. Respondent shall certify the cost of implementation of injunctive relief.

33. In all instances in which this CAFO requires written submission to EPA, the submittal made by Respondent shall be signed by an owner or officer of the Respondent and shall include the following certification:

"I certify under the penalty of law that this document and all its attachments were prepared by me or under my direct supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly

responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Copies of all documents required by this CAFO shall be sent to the following:

U.S. EPA, Region 6  
1201 Elm Street, Suite 500  
Enforcement and Compliance Assurance Division (ECAD)  
ATTN: Adolphus Talton  
Dallas, Texas 75270-2102

Where possible, notice shall be sent electronically by email or facsimile to Adolphus Talton, respectively at talton.adolphus@epa.gov or at 214-665-6651.

## **VI. TERMS OF SETTLEMENT**

### **A. Penalty Provisions**

34. Pursuant to the authority granted in Section 3008 of RCRA, 42 U.S.C. § 6928, and upon consideration of the entire record herein, including the above referenced Findings of Fact and Conclusions of Law, which are hereby adopted and made a part hereof, upon the seriousness of the alleged violations, and Respondent's good faith efforts to comply with the applicable regulations, it is ordered that Respondent be assessed a civil penalty of forty-eight thousand and six dollars and eighty cents (\$48,006.80).
35. The penalty shall be paid quarterly over a 24-month period, to begin thirty (30) calendar days from the effective date of this CAFO and made payable to the Treasurer United States.
36. The following are Respondent's options for transmitting the penalties: Regular Mail, U.S. Postal Mail (including certified mail) or U.S. Postal Service Express Mail, the check should be remitted to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, Missouri 63197-9000

Overnight Mail (non-U.S. Postal Service), the check should be remitted to:

U.S. Bank  
Government Lockbox 979077  
U.S. EPA Fines and Penalties  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, Missouri 63101  
314-418-1028

Wire Transfer:

Federal Reserve Bank of New York  
ABA: 021030004  
Account No. 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, NY 10045

The case name and docket number (**In the Matter of American Recovery, L.L.C., Docket No. RCRA-06-2021-0926**) shall be clearly documented on or within the chosen method of payment to ensure proper credit.

37. The Respondent shall send a simultaneous notice of such payment to the following:

Lorena S. Vaughn  
Regional Hearing Clerk (ORC)  
U.S. EPA, Region 6  
1201 Elm Street, Suite 500  
Dallas, Texas 75270-2102

U.S. EPA, Region 6  
1201 Elm Street, Suite 500  
Enforcement and Compliance Assurance Division (ECAD)  
ATTN: Adolphus Talton  
Dallas, Texas 75270-2102

Respondent's adherence to this request will ensure proper credit is given when penalties are received by EPA.

38. As part of settlement agreements, EPA has agreed to waive interest payment during the 24-month payment Schedule.
39. However, the costs of the Agency's administrative handling overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). EPA



will also assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) day period the penalty remains unpaid. In addition, a penalty charge of up to six percent (6%) per year will be assessed monthly on any portion of the debt which remains delinquent more than ninety (90) days. 40 C.F.R. § 13.11(b). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

#### **B. Costs**

40. Each party shall bear its own costs and attorney's fees. Furthermore, Respondent specifically waives its right to seek reimbursement of its costs and attorney's fees under the Equal Access to Justice Act (5 U.S.C. § 504), as amended by the Small Business Regulatory Enforcement Fairness Act (P.L. 04-121), and any regulations promulgated pursuant to those Acts.

#### **C. Termination and Satisfaction**

41. When Respondent believes that it has complied with all the requirements of this CAFO, including compliance with the Compliance Order and payment of the civil penalty, Respondent shall also certify this in writing and in accordance with the certification language set forth in Section V (Compliance Order). Unless the EPA, Region 6 objects in writing within sixty (60) days of EPA's receipt of Respondent's certification, then this CAFO is terminated on the basis of Respondent's certification.

#### **D. Effective Date of Settlement**

42. This CAFO shall become effective upon filing with the Regional Hearing Clerk.

American Recovery, L.L.C.  
RCRA-06-2021-0926

**THE UNDERSIGNED PARTIES CONSENT TO THE ENTRY OF THIS CONSENT AGREEMENT AND FINAL ORDER:**

FOR THE RESPONDENT:

American Recovery, L.L.C

Billy J.  
Pellegrin

Digitally signed by Billy J.  
Pellegrin  
Date: 2021.08.19  
15:29:39 -05'00'

---

Billy J. Pellegrin, VP QHSE  
American Recovery, L.L.C.

FOR THE COMPLAINANT:

*Cheryl T. Seager*

Digitally signed by CHERYL SEAGER  
DN: cn=U.S. Government,  
ou=Environmental Protection Agency,  
o=CHERYL SEAGER,  
c=9.2342.19200300.100.1.1468001003651793  
Date: 2021.08.20 13:33:29 -05'00'

---

Cheryl T. Seager  
Director  
Enforcement and  
Compliance Assurance Division  
U. S. EPA, Region 6

**FINAL ORDER**

Pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the foregoing CAFO is hereby ratified. This Final Order shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order shall resolve only those causes of action alleged herein. Nothing in this Final Order shall be construed to waive, extinguish or otherwise affect Respondent's (or its officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. Respondent is ordered to comply with the terms of settlement and the civil penalty payment instructions as set forth in the CAFO. Pursuant to 40 C.F.R. § 22.31(b) this Final Order shall become effective upon filing with the Regional Hearing Clerk.

**THOMAS  
RUCKI**

Digitally signed by THOMAS RUCKI  
DN: cn=U.S. Government,  
ou=Environmental Protection Agency,  
sn=THOMAS RUCKI,  
c=US, email=thomas.rucki@epa.gov,  
Date: 2021.08.24 09:57:33 -0500

---

Thomas Rucki  
Regional Judicial Officer

American Recovery, L.L.C.  
RCRA-06-2021-0926

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing Consent Agreement and Final Order was electronically delivered to the Regional Hearing Clerk, U.S. EPA - Region 6, 1201 Elm Street, Suite 500, Dallas, Texas 75270-2102, and that a true and correct copy was sent this day in the following manner to the addressees:

Copy via Email to Complainant:

pittman.lawrence@epa.gov

Copy via Email to Respondent:

billy.pellegrin@chouest.com

Lori Jackson 08/24/2021

---

EPA Region 6

*Electronic service was agreed to by the parties in lieu of service by certified mail to the following:*

Attn: Billy J. Pellegrin  
American Recovery, L.L.C.  
2296 Denley Road,  
Houma, LA 70363