



STATE OF DELAWARE
**DEPARTMENT OF NATURAL RESOURCES AND
ENVIRONMENTAL CONTROL**

RICHARDSON & ROBBINS BUILDING
89 KINGS HIGHWAY
DOVER, DELAWARE 19901

OFFICE OF THE
SECRETARY

PHONE
(302) 739-9000

**NOTICE OF ADMINISTRATIVE PENALTY ASSESSMENT
AND SECRETARY'S ORDER**

Pursuant to *7 Del. C. §§ 6005(b)(2) and (b)(3)*

Order No. 2024-WH-0009

VIA CERTIFIED MAIL, RETURN RECEIPT

Issued To:

John W. Casella
President
Casella Waste Systems, Inc.
25 Greens Hill Lane
Rutland, Vermont 05701

Registered Agent:

The Corporation Trust Company
1209 Orange Street
Wilmington, Delaware 19801

Dear Mr. Casella:

The Secretary of the Department of Natural Resources and Environmental Control (“Department”) has found Casella Waste Systems, Inc. (“Respondent” or “Casella”) in violation of *7 Del. C. Chapter 60*, and *7 DE Admin. Code § 1301*, Delaware’s *Regulations Governing Solid Waste* (“DRGSW”). Accordingly, the Department is issuing this Notice of Administrative Penalty Assessment and Secretary’s Order (“Secretary’s Order”), pursuant to *7 Del. C. § 6005(b)(3)*.

BACKGROUND

In a July 03, 2023, press release,¹ it was announced that on June 30, 2023, Respondent completed the acquisition of certain operations belonging to GFL Environmental, Inc., including those of Waste Industries of Delaware, LLC d.b.a. GFL Environmental, Inc. ("Waste Industries"), Delaware Solid Waste Transporter permit DE-SW-0935. At the time of the press release, Respondent had neither affected a transfer of Waste Industries' Delaware Solid Waste Transporter permit DE-SW-0935 pursuant to the DRGSW Sections 7.1.6 and 4.1.8, nor obtained its own permit to transport solid waste in Delaware.

On October 26, 2023, the Department issued Notice of Violation (NOV) 23-SW-32 to Respondent for failure to affect a transfer of Delaware Solid Waste Transporter permit DE-SW-0935 or obtain a Delaware solid waste transporter permit. The Notice of Violation required Respondent to obtain a Delaware solid waste transporter permit for the company since it was operating and transporting solid waste in Delaware.

On November 13, 2023, the Department received from Respondent a Solid Waste Transporter Permit Application. The application received by the Department was determined to be deficient and therefore incomplete. In a November 13, 2023, email, the Department notified Respondent of the deficiencies. Respondent submitted the required information to the Department on November 28, 2023 resulting in the Department deeming Respondent's application complete on that same date. Permit DE-SW-2041 was issued to Waste Industries of Delaware, LLC d.b.a. Casella Waste on December 27, 2023, thereby correcting the violations cited in NOV 23-SW-32 to the Department's satisfaction.

¹ Press release - Casella Waste Systems, Inc. Completes Acquisition of Select Solid Waste Operations From GFL Environmental Inc. | Casella Waste Systems, Inc.

FINDINGS OF FACT AND VIOLATION INCLUDING REGULATORY REQUIREMENTS

1. 7 Del. C. § 6003(a)(4) states in part:

“(a) No person shall, without first having obtained a permit from the Secretary, undertake any activity: ...

(4) In a way which may cause or contribute to the collection, transportation, storage, processing or disposal of solid wastes, regardless of the geographic origin or source of such solid wastes; or...”

And DRGSW Section 7.1.1 states:

“No person shall transport solid waste, without first having obtained a permit from the Department, unless specifically exempted by these Regulations...”

On October 17, 2023, a Department representative observed Respondent transporting solid waste in Delaware. At the time of the observation, Respondent lacked a valid solid waste transporter permit. By failing to comply with the requirements of DRGSW Sections 7.1.6 and 4.1.8, and by not first securing a permit, Respondent transported solid waste in Delaware without a valid solid waste transporter permit in violation of 7 Del.C. §6003(a)(4) and DRGSW Section 7.1.1.

On December 27, 2023, the Department issued Solid Waste Transporter Permit DE-SW-2041 to Waste Industries of Delaware, LLC d.b.a. Casella Waste.

CONCLUSIONS

Based on the foregoing, the Department has concluded that Respondent has violated the above-cited statutory and regulatory provisions.

ASSESSMENT OF PENALTY

Pursuant to 7 *Del. C.* § 6005(b)(3), the Secretary may impose an administrative penalty of not more than \$10,000.00 for each day of violation detailed in this Secretary's Order. This Secretary's Order is written notice to Respondent, that, based upon its findings, the Department is assessing Respondent an administrative penalty for the violations identified in this Secretary's Order. In assessing the administrative penalty, 7 *Del. C.* § 6005(b)(3) instructs the Secretary to consider the following factors: (1) the nature, circumstances, extent, and gravity of the violation, or violations; (2) the ability of the violator to pay; (3) any prior history of such violations; (4) the degree of culpability; (5) the economic benefit or savings (if any) resulting from each violation; and (6) such other matters as justice may require. A brief discussion of these factors is set forth below.

1. The Nature, Circumstances, Extent, and Gravity of the Violation, or Violations:

The nature, circumstances, extent, and gravity of the violations are significant. Transporting solid waste without a permit in the State of Delaware is a significant deviation from the statutory and regulatory requirements cited herein.

2. Respondents' Ability to Pay:

The record contains no information that Respondent lacks the ability to pay the administrative penalty assessed.

3. Prior History of Violations:

Respondent has not previously operated in the state of Delaware and therefore has not incurred solid waste regulatory violations, and thus this was not a factor in the administrative penalty assessment.

4. Degree of Culpability:

Had Respondent employed reasonable oversight measures as DRGSW require, these violations would not have occurred.

5. Economic Benefit or Savings Resulting from the Violation(s):

With respect to the economic benefit, this was not a factor in the administrative penalty assessment.

6. Such Other Matters as Justice May Require:

Lastly, considering such other matters as justice may require, the Secretary has determined that the penalty assessed is proportional to the violations cited herein and has been calculated to deter Respondent, and those similarly situated, from engaging in future violations.

Pursuant to *7 Del. C. § 6005(b)(3)*, this is written notice to Respondent that on the basis of the above findings and factors, an administrative penalty of \$10,000.00 is assessed for the violations identified in this Secretary's Order.

Respondent shall submit one check to the Department in the amount of \$10,000.00 to pay the administrative penalty within 30 days from the receipt of this Secretary's Order. The check shall be made payable to the "State of Delaware" and shall be directed to: Leslie Reese, 89 Kings Highway SW, Dover, Delaware 19901.

PUBLIC HEARING AND APPEAL RIGHTS

This Secretary's Order affects Respondent's legal rights and is effective and final upon receipt by Respondent. Pursuant to Section 6008 of Title 7 of the Delaware Code, any person whose interest is substantially affected by this action of the Secretary may appeal to the Environmental Appeals Board within **20 days** of the receipt of the Secretary's Order. In the alternative, Respondent may, pursuant to *7 Del. C. § 6005(b)(3)*, request a public hearing on the Secretary's Order within **30 days** of receipt of the Secretary's Order. A public hearing pursuant to *7 Del. C. § 6005(b)(3)* would be conducted pursuant to *7 Del. C. § 6006*, and the Secretary's order following the hearing would be subject to appeal, pursuant to *7 Del. C. § 6008*, by any person substantially affected.

Respondent is further advised that the above assessed administrative penalty shall be due and owing within 30 days of Respondent's receipt of this Secretary's Order. In the event of nonpayment of the administrative penalty assessed above, and after Respondent has exhausted all legal appeals, if any, a civil action may be brought by the Secretary in Superior Court for collection of the administrative penalty, including interest, attorneys' fees and costs, and the validity, amount and appropriateness of such administrative penalty and/or costs shall **not** be subject to review pursuant to *7 Del. C. §§ 6005(b)(3) and (c)*.

To request a public hearing pursuant to *7 Del. C. § 6005(b)(3)*, please submit your request, in writing, to:

Department of Natural Resources and Environmental Control
Office of the Secretary
89 Kings Highway
Dover, DE 19901
Telephone: (302) 739-9000

To submit an appeal to the Environmental Appeals Board pursuant to *7 Del. C. § 6008*, you must file your written statement of appeal and submit a check, made payable to: "Environmental Appeals Board," for the \$50.00 filing fee, to:

Department of Natural Resources and Environmental Control
Office of the Secretary
Attn: Assistant to the Environmental Appeals Board
89 Kings Highway
Dover, DE 19901
Telephone: (302) 739-9000

For additional information on filing an appeal with the Environmental Appeals Board and what information you must include in your written statement of appeal, please refer to the Environmental Appeals Board Regulations, codified at *7 DE Admin. Code § 105*.

The Department, to the extent necessary, reserves the right to take additional enforcement actions regarding these and other violations by Respondent, including but not limited to one or more of the following: an action under 7 Del. C. § 6005(b)(1) seeking penalties for past violations, an action under 7 Del. C. § 6005(b)(2) seeking penalties for continuing violations, an action in the Court of Chancery pursuant to 7 Del. C. § 6005(b)(2) seeking a temporary restraining order or an injunction, and the imposition of civil penalties and recovery of the Department's costs and attorney's fees pursuant to 7 Del. C. §§ 6005(b)(3) & (c)(1). Nothing in this document shall be deemed to estop, or in any way preclude any additional enforcement action for these or any other violations, including administrative and civil penalties for each day of violation, or an action for the recovery of Department costs expended in abating these violations.

SECRETARY'S ORDER FOR COST RECOVERY

Pursuant to 7 Del. C. § 6005(c), Respondent is liable for all expenses incurred by the Department in abating the violations detailed in this Secretary's Order. "Such expenses shall include, but not be limited to, the costs of investigation, legal fees and assistance, public hearings, materials, equipment, human resources, contractual assistance and appropriate salary and overtime pay for all state employees involved in the effort notwithstanding merit system laws, regulations or rules to the contrary." (7 Del. C. § 6005(c)(1)).

At this time, the Department is not seeking costs from Respondent. In the event that Respondent appeals this Secretary's Order pursuant to 7 Del. C. § 6008 or requests a public hearing pursuant to 7 Del. C. § 6005(b)(3) the Department reserves the right to issue a detailed billing statement of all costs incurred as a result and seek recovery of that amount. The Department will issue Respondent that detailed billing and Cost Recovery Order following exhaustion of Respondent's appeal rights.

PRE-PAYMENT

Respondent may prepay the administrative penalty of \$10,000.00 in the manner described in the attached "**Waiver of Statutory Right to A Hearing.**" **By doing so, Respondent waives its right to a hearing and the opportunity to appeal or contest this Secretary's Order.**

If you have any questions, please contact, or have your attorney contact Travis Groski Esq., Deputy Attorney General, at (302) 395-2500.

03/04/24

Date



For Shawn M. Garvin, Secretary

cc: Travis Groski, Esq. Deputy Attorney General
Timothy Ratsep, Division Director

WAIVER OF STATUTORY RIGHT TO A HEARING

Casella Waste Systems, Inc. hereby waives its right to a public hearing and its opportunity to appeal or contest this Secretary's Order, and agrees to the following:

1. **Casella Waste Systems, Inc.** will pay the administrative penalty in the amount of \$10,000.00 by sending a check payable to the "State of Delaware" within 30 days of receipt of this Secretary's Order. The check shall be directed to Leslie Reese, 89 Kings Highway SW, Dover, Delaware 19901.

Casella Waste Systems, Inc.

Date: _____

By: _____
(Signature)

Title: _____

Name: _____
(Print)