

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BOULEVARD
LENEXA, KANSAS 66219

In the Matter of:

Owens Corning Insulating
Systems, LLC,

Respondent

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Docket No. RCRA-07-2024-0031

CONSENT AGREEMENT AND FINAL ORDER

PRELIMINARY STATEMENT

The U.S. Environmental Protection Agency (EPA), Region 7 (“Complainant”) and Owens Corning Insulating Systems, LLC (“Respondent”) have agreed to a settlement of this action before the filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 Code of Federal Regulations (“C.F.R.”) §§ 22.13(b) and 22.18(b)(2).

ALLEGATIONS

Jurisdiction

1. This administrative action is being conducted pursuant to Sections 3008(a) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (“RCRA”), and the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. § 6928(a), and in accordance with the Consolidated Rules of Practice.

Parties

2. Complainant is the Director of the Enforcement and Compliance Assurance Division, Region 7, as duly delegated by the Administrator of EPA.

3. Respondent is Owens Corning Insulating Systems, LLC, a limited liability company organized under the laws of Delaware authorized to operate under the laws of Kansas.

Statutory and Regulatory Framework

4. RCRA was enacted to address the volumes of municipal and industrial solid waste generated nationwide in order to protect human health and the environment from potential hazards of waste disposal, conserve energy and natural resources, reduce the amount of waste generated, and ensure that wastes are managed in an environmentally sound manner.

5. RCRA provides guidelines for a waste management program and provides EPA with the authorities found in Sections 3001, 3002, 3004, and 3005 of RCRA, 42 U.S.C. §§ 6921, 6922, 6924, and 6925, to develop and promulgate specific requirements in order to implement the waste management program. Pursuant to these authorities, EPA promulgated the waste management regulations found at 40 C.F.R. 262, 265, 273, and 279.

6. Section 3001 of RCRA, 42 U.S.C. § 6921, requires the Administrator to develop and promulgate criteria for identifying the characteristics of hazardous waste, and for listing hazardous waste, which should be subject to the provisions of this subchapter, taking into account toxicity, persistence, and degradability in nature, potential for accumulation in tissue, and other related factors such as flammability, corrosiveness, and other hazardous characteristics.

7. Section 3002 of RCRA, 42 U.S.C. § 6922, requires the Administrator to promulgate regulations establishing such standards applicable to generators of hazardous waste identified or listed under this subchapter, as may be necessary to protect human health and the environment.

8. Section 3004 of RCRA, 42 U.S.C. § 6924, requires the Administrator to promulgate regulations establishing such performance standards, applicable to owners and operators of facilities for the treatment, storage, or disposal of hazardous waste identified or listed under this subchapter, as may be necessary to protect human health and the environment.

9. Section 3005 of RCRA, 42 U.S.C. § 6925, requires the Administrator of EPA to promulgate regulations requiring each person owning or operating an existing facility or planning to construct a new facility for the treatment, storage, or disposal of hazardous waste identified or listed under this subchapter to have a permit.

10. Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), defines “person” as an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body and shall include each department, agency, and instrumentality of the United States.

11. The regulation at 40 C.F.R. § 260.10 defines “facility” to include all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste, or for managing hazardous secondary materials prior to reclamation. A facility may consist of several treatment, storage or disposal operational units (e.g. one or more landfills, surface impoundments, or combinations of them).

12. The regulation at 40 C.F.R. § 260.10 defines “treatment” as any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste, or so as to recover energy or material resources from the waste, or so as to render such waste non-hazardous, or less hazardous; safer to transport, store, or dispose of; or amendable for recovery, amendable for storage, or reduced in volume.

13. The regulation at 40 C.F.R. § 260.10 defines “storage” as the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.

14. The regulation at 40 C.F.R. § 260.10 defines “disposal” as the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

15. “Solid waste” is defined at 40 C.F.R. § 261.2.

16. “Hazardous waste” is defined at 40 C.F.R. § 261.3.

17. The regulation at 40 C.F.R. § 260.10 defines “generator” as any person, by site, whose act or process produces hazardous waste identified or listed in part 261 of this chapter or whose act first causes a hazardous waste to become subject to regulation.

18. The regulation at 40 C.F.R. § 260.10 defines “small quantity generator” as a generator who generates less than 1,000 kilograms of hazardous waste in a calendar month.

19. The regulation at 40 C.F.R. § 260.10 defines “large quantity generator” as a generator who generates greater than or equal to 1,000 kilograms (2,200 pounds) of non-acute hazardous waste or greater than 1 kilogram (2.2 pounds) of acute hazardous waste listed in 40 C.F.R. §§ 261.31 or 261.33(e).

20. The State of Kansas has been granted authorization to administer and enforce a hazardous waste program pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, and the State of Kansas has adopted by reference the federal regulations cited herein at pertinent parts of Title 28, Article 31 of the Kansas Administrative Regulations (hereinafter “K.A.R.”). Section 3008 of RCRA, 42 U.S.C. § 6928, authorizes EPA to enforce the provisions of the authorized state program and the regulations promulgated thereunder. When EPA determines that any person has violated or is in violation of any RCRA requirement, EPA may issue an order assessing a civil penalty for any past or current violation and/or require immediate compliance or compliance within a specified time period pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928. In the case of a violation of a hazardous waste program pursuant to Section 3006 of RCRA, EPA shall give notice to the state in which such violation has occurred or is occurring prior to issuing an order. The State of Kansas has been notified of this action in accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

21. Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), authorizes a civil penalty of not more than \$25,000 per day for each violation. The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, 28 U.S.C. § 2461, and implementing regulations at 40 C.F.R. Part 19, increased these statutory maximum penalties to \$37,500 for violations that occurred before November 2, 2015, and to \$117,468 for violations that occur after November 2, 2015, and for which penalties are assessed on or after January 6, 2023. In assessing any such penalty, EPA must take into account the seriousness of the violation and any good faith efforts to comply with applicable requirements. Based upon the facts alleged in this Consent Agreement and Final Order, and upon those factors which Complainant must consider pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), Complainant and Respondent agree to the payment of a civil penalty pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), and to take the actions required by the Final Order, for the violations of RCRA alleged in this Consent Agreement and Final Order.

General Factual Background

22. Respondent is a limited liability company and authorized to conduct business within the State of Kansas. Respondent is a “person” as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

23. Respondent owns and operates a facility is located at 300 Sunshine Road, Kansas City, Kansas (the “facility”). Respondent’s facility manufactures fiberglass insulation and is located on 42-acres, has eight buildings onsite, employs approximately 200 people, and is operated 24 hours per day, seven days a week.

24. On or about February 25, 2022, Respondent notified to EPA of its regulated waste activity as a Large Quantity Generator (“LQG”) and obtained the following RCRA ID number: KSD000610725.

25. From October 18 to 20, 2022, EPA personnel conducted a RCRA Compliance Evaluation Inspection (hereinafter the “inspection”) of the hazardous waste management practices at Respondent’s Facility. Based on a review of the inspection report and the information provided during the inspection by facility personnel, it was determined that Respondent was operating, at the time of the inspection, as a Small Quantity Generator (“SQG”) of hazardous waste, a SQG for universal waste, and a used oil generator.

26. At the time of the inspection, the following wastes, among others, were present. These are solid and hazardous wastes as defined at 40 C.F.R. § 261.2 and 261.3:

- a. Dry electrostatic precipitator dust (hazardous waste codes D004, D007, and D010);
- b. Personal protective equipment (hazardous waste codes D004, D007, and D010);
- c. Waste ink (hazardous code D001);
- d. Aerosol can puncturing waste (hazardous waste code D001); and
- e. Broken fluorescent lamps (hazardous waste code D009).

27. At the time of the inspection, the following used oil containers were present:
- a. One 1-quart container and one 5-gallon container in the Powerhouse;
 - b. One 5-gallon container in the K5 Emergency Engine Area; and
 - c. One 330-gallon container, one 4 by 4-foot metal containment structure, two 5-gallon containers; and one 55-gallon drum in the Used Oil Storage Area.

28. At the time of the inspection, the following universal waste and containers were present:

- a. Three cardboard boxes of spent fluorescent lamps in the Universal Waste Storage Area;
- b. Four 55-gallon drums of universal waste batteries in the Universal Waste Storage Area; and
- c. Eight universal waste-batteries being stored on the concrete floor in the Universal Waste Storage Area.

Violations

29. Complainant hereby states and alleges that Respondent has violated RCRA and the federal regulations promulgated thereunder, as follows:

Count 1

Failure to Conduct and Document Hazardous Waste Determinations

30. Complainant hereby incorporates the allegations contained in Paragraphs 1 through 29 above, as if fully set forth herein.

Failure to Conduct Hazardous Waste Determinations

31. Pursuant to 40 C.F.R. § 262.11, incorporated by K.A.R. 28-31-262(a), a generator of solid waste, as defined in 40 C.F.R. §§ 260.10 and 261.2, must determine if that waste is a hazardous waste using methods prescribed in the regulations.

32. During the inspection, EPA personnel observed the following potential solid waste streams at Respondent's facility:

- a. One 55-gallon drum labeled as "Zep," one 55-gallon drum labeled as "Zep Hot Vac Stripper 9862," two 5-gallon containers of unknown dark green liquid, and a 2 by 2-foot area of unknown dried black stains on the concrete floor in the Powerhouse;
- b. One 5-gallon container labeled as "Printing Ink" in the Hazardous Waste Storage Cage;

- c. One 5-gallon container labeled as “Oakite 32,” one 5-gallon container labeled as “Karnax Cold Press Adhesive,” one 5-gallon container labeled as “Rop 25 Adhesive,” and one 5-gallon container labeled as “EPO Resurfacer Epoxy Concrete Topping” in the Carpenter Room; and
- d. Approximately 123 miscellaneous containers of waste paint, alcohol, and cleaners on either shelving or the countertop in the Paint Shed.

33. During the inspection, Respondent’s personnel were not able to state whether or not the potential solid waste streams identified in Paragraph 32 constituted hazardous waste.

34. Respondent’s failures to perform hazardous waste determinations on potential solid waste streams are violations of 40 C.F.R. § 262.11.

Failure to Document Hazardous Waste Determinations

35. Pursuant to 40 C.F.R. § 262.40 and 262.11(f), incorporated by K.A.R. 28-31-262(a), a generator must maintain records supporting its hazardous waste determinations for three years.

36. During the inspection, it was determined by EPA personnel that Respondent was generating the following solid waste streams at Respondent’s facility:

- a. Waste ink;
- b. Aerosol can puncturing waste;
- c. Broken fluorescent lamps;
- d. Sand blast media;
- e. Universal waste batteries;
- f. Wet electrostatic precipitator waste;
- g. Furnace bricks;
- h. Wash bay sludge; and
- i. Scrap insulation.

37. At the time of the inspection, Respondent was not able to provide documentation of hazardous waste determinations for the waste streams identified in Paragraph 36.

38. Respondent’s failures to document hazardous waste determinations for solid waste streams are violations of 40 C.F.R. § 262.40 and 262.22(f).

Count 2

Failure to Provide Notification to KDHE within 60 Days

39. Complainant hereby incorporates the allegations contained in Paragraphs 1 through 29 above, as if fully set forth herein.

40. Pursuant to KAR 28-31-4(c), a generator of hazardous waste is required to notify KDHE of any change to the information associated with their EPA identification number no later than 60 days after the change occurs.

41. According to Respondent's Hazardous Waste Site Info Verification Report, submitted on February 25, 2022, Respondent informed KDHE that it did not generate RCRA hazardous waste in 2021.

42. At the time of the inspection, EPA personnel determined that Respondent was generating the hazardous waste streams identified in paragraph 26.

43. During the inspection, Respondent's personnel stated that the Facility had a new site contact since the submission of the Verification Report to KDHE.

44. During the inspection, Respondent's personnel stated that Respondent had not provided notification to KDHE within 60 days of either the generation of new waste streams or the change in site contact.

45. Respondent's failure to provide timely notification to KDHE of changes associated with their EPA identification number is a violation of KAR 28-31-4(c).

Count 3

Operating as a Treatment, Storage or Disposal Facility Without a RCRA Permit or RCRA Interim Status

46. Complainant hereby incorporates the allegations contained in Paragraphs 1 through 29 above, as if fully set forth herein.

47. Section 3005 of RCRA, 42 U.S.C. § 6925, Kansas Statute Annotated 65-3431, and the regulations at 40 C.F.R. Part 270 require each person owning or operating a facility for the treatment, storage, or disposal of hazardous wastes identified or listed under Subchapter C of RCRA to have a permit or interim status for such activities.

48. At the time of the inspection, the Respondent did not have a permit or interim status.

Generator Requirements

49. The regulations at 40 C.F.R. § 262.34(a) state that a generator may accumulate hazardous waste on-site for ninety (90) days or less without a permit or without interim status, provided the conditions listed in 40 C.F.R. § 262.34(a)(1)-(4) are met. If a generator fails to comply with any of these conditions, the generator is not allowed to accumulate hazardous waste at their facility for any length of time. Respondent failed to comply with the following conditions:

Failure to store hazardous waste in containers that are in good condition

50. The regulations at 40 C.F.R. § 262.34(a)(1)(i), incorporated by K.A.R. 28-31-262(a) and K.A.R. 28-31-265(a), require that while being accumulated on-site, the hazardous waste is placed in containers and the generator complies with the applicable requirements of Subpart I of 40 C.F.R. Part 265.

51. Pursuant to 40 C.F.R. § 265.171, as found in 40 C.F.R. Part 265, Subpart I, the owner or operator must transfer hazardous waste from a container that is not in good condition or leaking to a container that is in good condition, or manage the waste in some other way that complies with the requirements of this part.

52. During the inspection, EPA personnel observed a 55-gallon drum containing dry electric precipitator personal protective equipment (hazardous waste codes D004, D007, and D010) had severe corrosion and was not in good condition in the Hazardous Waste Cage.

Failure to conduct weekly hazardous waste inspections

53. The regulations at 40 C.F.R. § 262.34(a)(1)(i), incorporated by K.A.R. 28-31-262(a) and K.A.R. 28-31-265(a), require that while being accumulated on-site, the hazardous waste must be placed in containers and the generator must comply with the applicable requirements of Subpart I of 40 C.F.R. Part 265.

54. Pursuant to 40 C.F.R. § 265.174, as found in 40 C.F.R. Part 265, Subpart I, the owner or operator must inspect, at least weekly, areas where containers of hazardous waste are stored, looking for leaking containers and deteriorating containers caused by corrosion or other factors.

55. At the time of the inspection, Respondent was unable to provide evidence of weekly inspections of hazardous waste containers after March 30, 2022.

Failure to document the time of weekly hazardous waste inspections

56. The regulations at 40 C.F.R. § 262.34(a)(4), incorporated by K.A.R. 28-31-262(a) and K.A.R. 28-31-265(a), require that while being accumulated on-site, the hazardous waste must be placed in containers and the generator must comply with the applicable requirements of Subpart I of 40 C.F.R. Part 265.

57. Pursuant to 40 C.F.R. § 265.15(d), as found in 40 C.F.R. Part 265, Subpart I, an owner or operator must maintain records of all inspections for at least three years following the inspection. Documentation of the inspections must include, at a minimum, the date and time of the inspection, the name of the inspector, a notation of any observations made, and the date and nature of any repairs or other remedial actions.

58. At the time of the inspection, Respondent's weekly inspection logs from January 2, 2020, to March 30, 2022, did not contain the time of the respective inspections.

Failure to mark hazardous waste accumulation containers with accumulation start date

59. The regulations at 40 C.F.R. § 262.34(a)(2) require generators to clearly mark each container of hazardous waste with the date on which its period of accumulation began.

60. During the inspection, EPA personnel observed five 55-gallon drums containing either dry electric precipitator dust or personal protective equipment (hazardous waste codes D004, D007, and D010) that had not been marked with an accurate accumulation start date in the Hazardous Waste Cage.

Failure to maintain adequate aisle space

61. The regulations at 40 C.F.R. § 262.34(a)(4), incorporated by K.A.R. 28-31-265(a), require, in part, that the generator comply with Subparts C and D in 40 C.F.R. Part 265, with 40 C.F.R. § 265.16, and with 40 C.F.R. § 268.7(a)(4).

62. Pursuant to 40 C.F.R. § 265.35, as found in 40 C.F.R. Part 265, Subpart C, the owner or operator 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.

63. At the time of the inspection, it was discovered that Respondent failed to maintain adequate aisle space in the Hazardous Waste Cage. EPA personnel observed that there was a less than two-foot wide path along the wall of the area to access drums containing hazardous waste, that the drums were stored closely together on a wooden pallet without aisle space for unobstructed movement, and that access was obstructed by the storage of empty 250-gallon totes.

Failure to operate facility to minimize the release of hazardous waste

64. The regulations at 40 C.F.R. § 262.34(a)(4), incorporated by K.A.R. 28-31-265(a), require, in part, that the generator comply with Subparts C and D in 40 C.F.R. Part 265, with 40 C.F.R. § 265.16, and with 40 C.F.R. § 268.7(a)(4).

65. Pursuant to 40 C.F.R. § 265.31, as found in 40 C.F.R. Part 265, Subpart C, the owner or operator must operate and maintain the facility to minimize the possibility of fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or environment.

66. During the inspection, EPA personnel observed a 2 by 2-foot area of black, dried stain (hazardous waste code D002) on the concrete floor surrounding an open 55-gallon drum labeled as "Zep Hot Vac Stripper 9862" (hazardous waste code D002) in the Powerhouse. Stains were also observed on the side of the 55-gallon drum.

67. Because Respondent failed to comply with the generator requirements set forth above, Respondent was not authorized to store hazardous waste at the Facility for any length of time, and therefore was operating a hazardous waste storage facility without a permit in violation of Section 3005 of RCRA, 42 U.S.C. § 6925.

Count 4

Failure to Comply with Universal Waste Management Requirements

68. Complainant hereby incorporates the allegations contained in Paragraphs 1 through 29 above, as if fully set forth herein.

Failure to label universal waste containers

69. The regulations at 40 C.F.R. § 273.14(a), incorporated by K.A.R. 28-31-273, require small quantity handlers of universal waste to clearly label or mark each battery or container in which the batteries are contained, must be labeled or clearly marked with one of the following phrases: “Universal Waste-Battery(ies), or “Waste Battery(ies),” or “Used Battery(ies).”

70. At the time of the inspection, the following lamps or containers or packages were not properly labeled or marked:

- a. Eight universal waste batteries stored on the concrete floor in the Universal Waste Storage Area; and
- b. One 55-gallon drum of universal waste batteries in the Universal Waste Storage Area.

71. Respondent’s failure to properly label the universal waste lamp containers described above is a violation of 40 C.F.R. § 273.14(e).

Failure to close universal waste containers

72. The regulations at 40 C.F.R. § 273.13(d)(1), incorporated by K.A.R. 28-31-273, require a small quantity handler of universal waste to manage lamps in a way that prevents releases by containing the lamps in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.

73. During the inspection, EPA personnel observed that Respondent had failed to close three cardboard boxes containing universal waste-lamps.

74. Respondent’s failure to close the universal waste containers or packages described above to prevent releases and breakage is a violation of 40 C.F.R. § 273.13(d)(1).

Accumulation of universal waste for longer than one year

75. The regulations at 40 C.F.R. §§ 273.15(a) and (b), incorporated by K.A.R. 28-31-273, state that a small quantity handler of universal waste may accumulate universal waste for no longer than one (1) year from the date the universal waste is generated, or received from another handler, unless such accumulation is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal.

76. At the time of the inspection, Respondent was storing four 55-gallon drums of universal waste batteries in the Universal Waste Storage Area.

77. During the inspection, Respondent's personnel stated that it had been accumulating the universal waste batteries for a period of time exceeding one year.

78. Respondent's accumulation of the universal waste batteries described above for longer than one year is a violation of 40 C.F.R. § 273.15(a) and (b).

Count 5

Failure to Properly Manage Used Oil

79. Complainant hereby incorporates the allegations contained in Paragraphs 1 through 29 above, as if fully set forth herein.

80. The regulations at 40 C.F.R. § 279.22(c)(1), incorporated by K.A.R. 28-31-279, require used oil generators to label or clearly mark containers and above ground tanks used to store used oil at generator facilities with the words "Used Oil."

81. During the inspection, EPA personnel observed that Respondent had failed to label or clearly mark the following used oil containers:

- a. One 1-quart container in the Powerhouse;
- b. One 5-gallon container in the K5 Emergency Engine Area;
- c. One 4 by 4-foot metal containment structure in the Used Oil Storage Area;
- d. Two 5-gallon containers in the Used Oil Storage Area; and
- e. One 55-gallon drum in the Used Oil Storage Area.

82. Respondent's failure to properly label or mark the containers of used oil described above is a violation of 40 C.F.R. § 279.22(c)(1).

CONSENT AGREEMENT

83. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:

- (a) admits the jurisdictional allegations set forth herein;

- (b) neither admits nor denies the specific factual allegations stated herein;
- (c) consents to the assessment of a civil penalty, as stated herein;
- (d) consents to the issuance of any specified compliance or corrective action order;
- (e) consents to any conditions specified herein;
- (f) consents to any stated Permit Action;
- (g) waives any right to contest the allegations set forth herein; and
- (h) waives its rights to appeal the Final Order accompanying this Consent Agreement.

84. Respondent consents to the issuance of this Consent Agreement and Final Order and consents for the purposes of settlement to the payment of the civil penalty specified herein.

85. Respondent and EPA agree to the terms of this Consent Agreement and Final Order and Respondent agrees to comply with the terms specified herein.

86. Respondent and EPA agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorneys' fees.

87. Respondent consents to receiving an electronic copy of the filed Consent Agreement and Final Order at the following email address: aurora.kurth@owenscorning.com.

Penalty Payment

88. Respondent agrees that, in settlement of the claims alleged herein, Respondent shall pay a civil penalty of One Hundred Fifteen Thousand Three Hundred Two Dollars (\$115,302.00) as set forth below.

89. Respondent shall pay the penalty within thirty (30) days of the effective date of the Final Order. Such payment shall identify Respondent by name and docket number and shall be by certified or cashier's check made payable to the "United States Treasury" and sent to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979078
St. Louis, Missouri 63197-9000

or by alternate payment method described at <http://www.epa.gov/financial/makepayment>.

90. A copy of the check or other information confirming payment shall simultaneously be emailed to the following:

Regional Hearing Clerk
R7_Hearing_Clerk_Filings@epa.gov; and

Sam Bennett, Attorney
bennett.sam@epa.gov

91. Respondent understands that its failure to timely pay any portion of the civil penalty may result in the commencement of a civil action in Federal District Court to recover the full remaining balance, along with penalties and accumulated interest. In such case, interest shall begin to accrue on a civil or stipulated penalty from the date of delinquency until such civil or stipulated penalty and any accrued interest are paid in full. 31 C.F.R. § 901.9. Interest will be assessed at a rate of the United States Treasury Tax and loan rates in accordance with 31 U.S.C. § 3717. Additionally, a charge will be assessed to cover the costs of debt collection including processing and handling costs, and a non-payment penalty charge of six (6) percent per year compounded annually will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. 31 U.S.C. § 3717(e)(2).

Effect of Settlement and Reservation of Rights

92. Full payment of the penalty proposed in this Consent Agreement shall only resolve Respondent's liability for federal civil penalties for the violations alleged herein. Complainant reserves the right to take any enforcement action with respect to any other violations of RCRA or any other applicable law.

93. The effect of settlement described in the immediately preceding paragraph is conditioned upon the accuracy of Respondent's representations to the EPA, as memorialized in paragraph directly below.

94. Respondent certifies by the signing of this Consent Agreement and Final Order that, to the best of its knowledge, it is presently in compliance with all requirements of RCRA, 42 U.S.C. § 6901 *et. seq.*, its implementing regulations, and any permit issued pursuant to RCRA.

95. Full payment of the penalty proposed in this Consent Agreement shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Consent Agreement and Final Order does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of RCRA and regulations promulgated thereunder.

96. Notwithstanding any other provision of this Consent Agreement and Final Order, EPA reserves the right to enforce the terms and conditions of this Consent Agreement and Final Order by initiating a judicial or administrative action under Section 3008 of RCRA, 42 U.S.C. § 6928, and to seek penalties against Respondent in an amount not to exceed Seventy Thousand

Seven Hundred Fifty-Two Dollars (\$70,752) per day, per violation, pursuant to Section 3008(c) of RCRA, for each day of non-compliance with the terms of this Consent Agreement and Final Order, or to seek any other remedy allowed by law.

97. Except as expressly provided herein, nothing in this Consent Agreement and Final Order shall constitute or be construed as a release from any claim (civil or criminal), cause of action, or demand in law or equity by or against any person, firm, partnership, entity, or corporation for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from Respondent's facility.

98. Notwithstanding any other provisions of the Consent Agreement and Final Order, an enforcement action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should EPA find that the handling, storage, treatment, transportation, or disposal of solid waste or hazardous waste at Respondent's facility may present an imminent and substantial endangerment to human health and the environment.

99. Nothing contained in the Final Order portion of this Consent Agreement and Final Order shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, state, and local environmental statutes and regulations and applicable permits.

General Provisions

100. By signing this Consent Agreement, the undersigned representative of Respondent certifies that they are fully authorized to execute and enter into the terms and conditions of this Consent Agreement and has the legal capacity to bind the party they represent to this Consent Agreement.

101. This Consent Agreement shall not dispose of the proceeding without a final order from the Regional Judicial Officer or Regional Administrator ratifying the terms of this Consent Agreement. This Consent Agreement and Final Order shall be effective upon the filing of the Final Order by the Regional Hearing Clerk for EPA, Region 7. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

102. The penalty specified herein shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal, State and local taxes.

103. This Consent Agreement and Final Order shall apply to and be binding upon Respondent and Respondent's agents, successors and/or assigns. Respondent shall ensure that all contractors, employees, consultants, firms, or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this Consent Agreement and Final Order.

104. The headings in this Consent Agreement and Final Order are for convenience of reference only and shall not affect interpretation of this Consent Agreement and Final Order.

COMPLAINANT:

U.S. ENVIRONMENTAL PROTECTION AGENCY

David Cozad
Director
Enforcement and Compliance Assurance Division

Date

Sam Bennett
Office of Regional Counsel

Date

RESPONDENT:

OWENS CORNING INSULATING SYSTEMS, LLC



Signature

12/18/23

Date

JENNIFER WOLFENBARGER

Printed Name

VP, FINANCE OWENS CORNING INSULATION

Title

FINAL ORDER

Pursuant to Sections 3008(a) of RCRA, 42 U.S.C. § 6928(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22, the foregoing Consent Agreement resolving this matter is hereby ratified and incorporated by reference into this Final Order.

Respondent is ORDERED to comply with all of the terms of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(b), the effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

IT IS SO ORDERED.

Karina Borromeo
Regional Judicial Officer

Date

CERTIFICATE OF SERVICE

I certify that that a true and correct copy of the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy via Email to Complainant:

Sam Bennett
Office of Regional Counsel
Bennett.Sam@epa.gov

Mike Martin
Enforcement and Compliance Assurance Division
Martin.Mike@epa.gov

Copy via Email to Respondent:

Aurora Kurth
Owens Corning Insulating Systems
Aurora.Kurth@owenscorning.com

Copy via Email to the State of Kansas:

Julie Coleman, Director (e-copy)
Bureau of Waste Management
Kansas Department of Health and Environment
Julie.Coleman@ks.gov

Amy E. Thompson (e-copy)
Compliance and Enforcement, Waste Reduction, and Assistance Section
Kansas Department of Health and Environment
Amy.E.Thompson@ks.gov

Dated this _____ day of _____, _____.

Signed