

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:)	Docket No. RUST-05-2023-0007
)	
Mr. GREG SETOLA)	
SEAGATE CENTER)	EXPEDITED SETTLEMENT
401 JEFFERSON AVENUE)	AGREEMENT AND
TOLEDO, OHIO 43604)	FINAL ORDER
Respondent)	
)	
)	

EXPEDITED SETTLEMENT AGREEMENT

1. Based on an inspection conducted on August 1, 2022, the U.S. Environmental Protection Agency (“EPA”) alleges that the Seagate Center (“Respondent”), owner or operator of the Underground Storage Tank (UST) at 401 Jefferson Avenue, Toledo, Ohio, failed to comply with the following requirement of Subtitle I of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§ 6991 *et seq.*, and its implementing regulations at 40 C.F.R. part 280.
 - a. 40 C.F.R. § 280.35(a)(1) Failure to periodically test spill prevention equipment (proposed penalty \$1,222).
 - b. 40 C.F.R. § 280.35(a)(2) Failure to periodically test and inspect overfill prevention equipment (proposed penalty \$1,222).
 - c. 40 C.F.R. § 280.36(a) Failure to conduct periodic walkthrough inspection every thirty days (proposed penalty \$1,222).
 - d. 40 C.F.R. § 280.40(a)(3) Failure to test release detection per manufacturer’s instructions (proposed penalty \$1,222).
 - e. 40 C.F.R. § 280.41(a) Failure to monitor tanks every 30-days (proposed penalty \$1,222).
 - f. 40 C.F.R. § 280.241(a) Failure to designate a class A operator (proposed penalty \$1,222).
 - g. 40 C.F.R. § 280.241(a) Failure to designate a class B operator (proposed penalty \$1,222).

The total proposed penalty is therefore \$8,554.

2. The EPA and the Respondent agree that settlement of this matter for a penalty of **\$8,554** is in the public interest.
3. The EPA is authorized to enter into this Expedited Settlement Agreement and Final Order (“Agreement”) pursuant to section 9006 of RCRA and 40 C.F.R. §§ 22.13(b) and 22.18(b).

4. In signing this Agreement, the Respondent: (1) admits that the Respondent is subject to requirements listed above in Paragraph 1, (2) admits that the EPA has jurisdiction over the Respondent and the Respondent's conduct as alleged herein, (3) neither admits nor denies the factual allegations contained herein, (4) consents to the assessment of this penalty, and (5) waives any right to contest the allegations contained herein.
5. By its signature below, the Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that Respondent has: (1) corrected the alleged violations, (2) submitted true and accurate documentation of those corrections, (3) provided a deposit for payment of the civil penalty in Paragraph 2 above in accordance with the EPA penalty collection procedures provided to the Respondent, (4) submitted true and accurate proof of deposit for payment of the civil penalty with this Agreement, and (5) agrees to release the deposit for payment to the EPA upon entry of this Order.
6. The EPA reserves all of its rights to take enforcement action for any other past, present, or future violations by the Respondent of RCRA, any other federal statute or regulation, or against any violations alleged to have been corrected pursuant to this Agreement that were not corrected.
7. Upon signing and returning this Agreement to the EPA, the Respondent waives any and all remedies, claims for relief and other available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this Agreement including the opportunity for a hearing or appeal pursuant to section 9006(b) of RCRA, 42 U.S.C. § 6991e(b), or 40 C.F.R. Part 22.
8. Full payment of the penalty in Paragraph 2 shall only resolve Respondent's liability for federal civil penalties under section 9006(d) of RCRA, 42 U.S.C. § 6991e(d), for the violation(s) alleged in Paragraph 1. Full payment of this penalty shall not in any case affect the right of the EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.
9. No portions of the civil penalty or interest paid by Respondent pursuant to the requirements of this agreement shall be claimed by Respondent as a deduction for federal, state, or local income tax purposes.
10. If Respondent does not timely pay the civil penalty, the 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 penalties are not reviewable in a collection action.
11. The EPA reserves all of its rights to take enforcement action for any other past, present, or future violations by Respondent of RCRA, any other federal statute or regulation or this Agreement.

12. Each party shall bear its own costs and fees, if any.
13. This Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. § 22.31(b), is effective upon filing.
14. The parties consent to electronic signature and service of this Expedited Settlement Agreement and Final Order. Service by email will be at the following valid e-mail addresses: Cisneros.Arturo@EPA.GOV for Complainant, and gsetola@mcctoledo.org (for Respondent).

IT IS SO AGREED,

Name (print): GREG SETOLA

Title (print): DIRECTOR, OPERATIONS

Signature: 

Date: 03/30/2023

APPROVED BY EPA:

Michael D. Harris, Director
Enforcement and Compliance Assurance Division
United States Environmental Protection Agency
Region 5

Date: _____

In the Matter of:
Seagate Center
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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.

Date

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