

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 7

Received by  
EPA Region 7  
Hearing Clerk

<b>In the Matter of</b>	)	
	)	
Art's-Way Manufacturing Co., Inc.	)	<b>Docket No. RCRA-07-2022-0074</b>
Armstrong, Iowa	)	
EPA ID Number: IAD005295647	)	<b>EXPEDITED SETTLEMENT</b>
	)	<b>AGREEMENT AND FINAL ORDER</b>
<b>Respondent.</b>	)	

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**EXPEDITED SETTLEMENT AGREEMENT**

- 1) The U.S. Environmental Protection Agency (“EPA”) is authorized to enter into this Expedited Settlement Agreement (“Agreement” or “ESA”) pursuant to Section 3008 of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6928, and 40 C.F.R. § 22.13(b).
- 2) By copy of this letter, the EPA is providing the State of Iowa with notice of the referenced violations of Subtitle C of RCRA as required by Section 3008(a)(2).
- 3) Art’s-Way Manufacturing Co., Inc. (“Respondent”) is the owner or operator of the facility located at 5556 Hwy 9, Armstrong, IA 50514 (“Facility”). The EPA inspected the Facility, on July 29, 2021. The EPA alleges that Respondent violated the following requirements of the RCRA hazardous waste management program:
  - a. 40 C.F.R. § 262.11(c) requires that a person who generates a solid waste, as defined in 40 C.F.R. § 261.2, must make an accurate determination as to whether that waste is a hazardous waste in order to ensure wastes are properly managed according to applicable RCRA regulations. If the waste is not excluded under 40 C.F.R. § 261.4, the person must then use knowledge of the waste to determine whether the waste meets any of the listing descriptions under subpart D of 40 C.F.R. Part 261. At the time of the inspection, the EPA determined that the Respondent did not conduct an adequate hazardous waste determination on the parts washer paint gun cleaner solvent to determine whether the waste meets any of the listing descriptions under subpart D of 40 C.F.R. Part 261. Respondent’s failure to conduct an adequate hazardous waste determination on the parts washer paint gun cleanser solvent is a violation of 40 C.F.R. § 262.11(c).
  - b. 40 C.F.R. § 262.15 states that a generator may accumulate as much as 55 gallons of non-acute hazardous waste in containers at or near any point of generation where wastes initially accumulate which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with the requirements of parts 124, 264 through 267, and 270 of this chapter, provided that all of the conditions for exemption in this section are met.

Because the following conditions for exemption for a generator were not met, Respondent was not authorized to accumulate hazardous waste at the Facility, and therefore was operating a hazardous waste storage facility without a permit in violation of Section 3005 of RCRA, 42 U.S.C. § 6925.

- i. 40 C.F.R. § 262.15(a)(4) requires that a container holding hazardous waste must be closed at all times during accumulation, except: (i) when adding, removing, or consolidating waste; or (ii) when temporary venting of a container is necessary. At the time of the inspection, the EPA determined that the Respondent did not keep two (2) hazardous waste satellite accumulation containers closed (one 5-gallon container of waste paint related material and one 55-gallon container of solvent contaminated rags). Because Respondent failed to keep these containers closed, Respondent does not qualify for the exemption provided in 40 C.F.R. § 262.15 and therefore is in violation of Section 3005 of RCRA, 42 U.S.C. § 6925.
  - ii. 40 C.F.R. § 262.15(a)(5)(i) requires that a generator must mark or label a container holding hazardous waste with the words "Hazardous Waste." At the time of the inspection, the EPA determined that the Respondent did not label two (2) hazardous waste satellite accumulation containers with the words "Hazardous Waste" (one 5-gallon container of paint gun solvent flush and one 55-gallon container of solvent contaminated rags). Because Respondent failed to label these containers with the words "Hazardous Waste," Respondent does not qualify for the exemption provided in 40 C.F.R. § 262.15 and therefore is in violation of Section 3005 of RCRA, 42 U.S.C. § 6925.
  - iii. 40 C.F.R. § 262.15(a)(5)(ii) requires that a generator must mark or label its container holding hazardous waste with an indication of the hazards of the contents. At the time of the inspection, the EPA determined that the Respondent did not mark two (2) hazardous waste satellite accumulation containers with an indication of the hazards of the contents (one 5-gallon container of waste paint related material and one 55-gallon container of solvent contaminated rags). Because Respondent failed to mark or label these containers with an indication of the hazards of the contents, Respondent does not qualify for the exemption provided in 40 C.F.R. § 262.15 and therefore is in violation of Section 3005 of RCRA, 42 U.S.C. § 6925.
- c. 40 C.F.R. § 262.16 states that a small quantity generator (SQG) may accumulate hazardous waste on site without a permit or interim status, and without complying with the requirements of 40 C.F.R. parts 124, 264 through 267 and 270, or the notification requirements of Section 3010 of RCRA, provided that all the conditions for exemption listed at 40 C.F.R. § 264.16 are met. Because the following conditions for exemption for an SQG were not met, Respondent was not authorized to store hazardous waste at the Facility, and therefore was operating a hazardous waste storage facility without a permit in violation of Section 3005 of RCRA, 42 U.S.C. § 6925.
- i. 40 C.F.R. § 262.16(b)(2)(iv) requires at least weekly, an SQG must inspect

central accumulation areas. The SQG must look for leaking containers and for deterioration of containers caused by corrosion or other factors. At the time of inspection, the EPA determined that the Respondent did not conduct adequate weekly inspections on eight (8) 55-gallon hazardous waste storage containers of waste paint related material with no date upon which each period of accumulation began. Because Respondent failed to conduct weekly inspections on these containers, Respondent does not qualify for the exemption provided in 40 C.F.R. § 262.16 and therefore is in violation of Section 3005 of RCRA, 42 U.S.C. § 6925.

- ii. 40 C.F.R. § 262.16(b)(6)(i)(C) requires that an SQG must mark or label its containers with the date upon which each period of accumulation begins clearly visible for inspection on each container. At the time of inspection, the EPA determined that the Respondent did not label eight (8) 55-gallon hazardous waste storage containers of waste paint related material with the date upon which each period of accumulation began. Because Respondent failed to include an accumulation start date on these containers, Respondent does not qualify for the exemption provided in 40 C.F.R. § 262.16 and therefore is in violation of Section 3005 of RCRA, 42 U.S.C. § 6925.
  
- d. 40 C.F.R. § 273.14(e) requires that a small quantity handler of universal waste must label or mark the universal waste to identify the type of universal waste. Specifically, each lamp or a container or package in which such lamps are contained must be labeled or marked clearly with one of the following phrases: “Universal Waste – Lamp(s),” or “Waste Lamp(s),” or “Used Lamp(s).” At the time of the inspection, the EPA determined that the Respondent did not label two (2) 4-foot cardboard containers of universal waste-lamps. Respondent’s failure to label these containers as required by 40 C.F.R. § 273.14(e) is a violation of 40 C.F.R. § 273.14.
  
- e. 40 C.F.R. § 273.15(c) requires that a small quantity handler of universal waste who accumulates universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. The handler may make this demonstration by: (1) placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received; (2) marking or labeling each individual item of universal waste (e.g., each battery or thermostat) with the date it became a waste or was received; (3) maintaining an inventory system on-site that identifies the date each universal waste became a waste or was received; (4) maintaining an inventory system on-site that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received; (5) placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received; or (6) any other method which clearly demonstrates the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. At the time of the inspection, the EPA determined that the

Respondent did not demonstrate the length of time of accumulation for two (2) 4-foot cardboard containers of universal waste-lamps. Respondent's failure to demonstrate the length of time of accumulation for these containers of universal waste-lamps is a violation of 40 C.F.R. § 273.15.

- 4) The EPA and Respondent agree that settlement of this matter for a civil penalty of ten thousand dollars (\$10,000.00) is in the public interest. Respondent certifies that it has provided a deposit for payment for the full civil penalty amount, and that such payment identified Respondent by name and docket number, was made 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  
P.O. Box 979077  
St. Louis, Missouri 63197-9000

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

- 5) 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](mailto:R7_Hearing_Clerk_Filings@epa.gov); and

Milady Peters, Paralegal  
[peters.milady@epa.gov](mailto:peters.milady@epa.gov)

- 6) In signing this Agreement, Respondent: (1) admits that Respondent is subject to RCRA and its implementing regulations; (2) admits that EPA has jurisdiction over Respondent and Respondent's conduct as alleged herein, (3) neither admits nor denies the factual allegations contained herein; (4) consents to the assessment of this penalty; (5) agrees to release funds held on deposit as payment to the EPA for the civil penalty upon final EPA approval of this Agreement; (6) waives the opportunity for a hearing to contest any issue of fact or law set forth herein; (7) waives its right to appeal the Final Order accompanying this Agreement pursuant to Section 3008(b) of RCRA; and (8) consents to electronic service of the filed ESA to the following email address: [brianw@artsway-mfg.com](mailto:brianw@artsway-mfg.com).
- 7) By its signature below Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that: (1) the alleged violations have been corrected, (2) 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, and (3) Respondent is submitting proof of payment of the civil penalty with this Agreement.

- 8) The undersigned representative of Respondent certifies that he or she is fully authorized to enter the terms and conditions of this Consent Agreement and Final Order and to execute and legally bind Respondent to it. Upon the effective date of this Agreement, payment of the civil penalty shall constitute full settlement of the civil claims alleged herein.
- 9) EPA reserves all of its rights to take an enforcement action for any other past, present, or future violations by Respondent of RCRA, any other federal statute or regulation, or this Agreement.
- 10) Full payment of the civil penalty shall only resolve Respondent's liability for federal civil penalties for the violations alleged herein. The EPA reserves the right to take any enforcement action with respect to any other past, present, or future violations of RCRA or any other applicable law.
- 11) The penalty specified herein shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal, State and local taxes.
- 12) Each party shall bear its own costs and fees, if any.
- 13) This Agreement is binding on the parties signing below.

IT IS SO AGREED,

Michael Woods

Name (print)

Chief Financial Officer

Title (print)



Signature

5/27/27

Date

APPROVED BY EPA:

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Candace Bednar  
Chemical Branch Chief  
Enforcement and Compliance Assurance Division

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Date

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Katherine Kacsur, Attorney  
Office of Regional Counsel

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Date

FINAL ORDER

Pursuant to the authority of Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g), 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 Expedited Settlement Agreement resolving this matter is hereby ratified and incorporated by reference into this Final Order.

In accordance with 40 C.F.R. § 22.31(b), the effective date of the foregoing Expedited Settlement 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**  
**To be completed by EPA**

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 e-mail to Complainant:

Katherine Kacsur, Office of Regional Counsel  
*kacsur.katherine@epa.gov*

Mike Martin, Enforcement and Compliance Assurance Division  
*martin.mike@epa.gov*

Milady Peters, Office of Regional Counsel  
*peters.milady@epa.gov*

Copy via e-mail to Respondent:

Brian Wrightsman, Director of Manufacturing  
Art's-Way Manufacturing Co., Inc.  
*brianw@artsway-mfg.com*

Ryan Harms, Maintenance Manager  
Art's-Way Manufacturing Co., Inc.  
*ryanh@artsway-mfg.com*

Copy via e-mail to the State of Iowa:

Ed Tormey, Acting Administrator  
Environmental Services Division  
Iowa Department of Natural Resources  
*ed.tormey@dnr.iowa.gov*

Mike Sullivan, Section Supervisor  
Solid Waste and Contaminated Sites Section  
Iowa Department of Natural Resources  
*michael.sullivan@dnr.iowa.gov*

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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Signed