

UNITES STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66101

UNITED STATES
ENVIRONMENTAL PROTECTION
AGENCY-REGION 7
2012 AUG 15 AM 11:42

IN THE MATTER OF:)
)
Trimark Corporation) Docket No. RCRA-07-2012-0022
EPA ID No. IAT200010015)
) EXPEDITED SETTLEMENT
Respondent.) AGREEMENT AND FINAL ORDER
_____)

EXPEDITED SETTLEMENT AGREEMENT

1. The U.S. Environmental Protection Agency (EPA) alleges that Trimark Corporation (Respondent), owner and operator of the facility at 500 Bailey Avenue, New Hampton, Iowa, failed to timely submit a Biennial Report for reporting years 2009 and 2011 as required by the Resource Conservation and Recovery Act (RCRA).
2. Under 40 C.F.R. § 262.41(a), Respondent was required to submit its 2009 and 2011 Biennial Reports on or before March 1 of 2010 and 2012, respectively.
3. The EPA and Respondent agree that settlement of this matter for a penalty of five thousand dollars (\$5,000) is in the public interest.
4. The EPA is authorized to enter into this Expedited Settlement Agreement and Final Order (Agreement) under the authority vested in the EPA Administrator by Section 3008 of the RCRA, 42 U.S.C. § 6928, and by 40 C.F.R. § 22.13(b).
5. In signing this Agreement, Respondent: (1) admits that Respondent is subject to 40 C.F.R. § 262.41(a); (2) admits that the 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; and (5) waives any rights to contest the allegations contained herein.
6. 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 violation has been corrected, and (2) Respondent is submitting proof of payment of the civil penalty with this Agreement.
7. Respondent agrees that the civil penalty of five thousand dollars (\$5,000) should be paid in accordance with the EPA Region 7 Penalty Collection Procedures provided to the Respondent.
8. Upon the effective date of this Agreement, payment of the civil penalty and submission of the 2009 and 2011 Biennial Reports shall constitute full settlement of the civil claim alleged herein.

9. The EPA reserves all of its rights to take enforcement action for any other past, present, or future violations by Respondent of the RCRA, any other federal statute or regulation, or this Agreement.

10. Upon signing and returning this Agreement to the EPA, Respondent waives the opportunity for a hearing or appeal pursuant to Section 3008(b) of the RCRA, 42 U.S.C. § 6928.

11. Each party shall bear its own costs and fees, if any.

12. This Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. § 22.31(b), is effective upon filing.

Final Order

Pursuant to the authority of Section 3008(a) of the RCRA, 42 U.S.C. § 6928(a), and according to the terms of this Agreement, IT IS HEREBY ORDERED THAT:

1. Respondent shall pay a civil penalty of five thousand dollars (\$5,000) within 30 days of its receipt of the letter invitation setting forth the opportunity for expedited settlement. Such payment shall identify Respondent by name and docket number and be paid in accordance with the Penalty Collection Procedures provided to the Respondent.

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

Kathy Robinson
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 7
901 North 5th Street
Kansas City, Kansas 66101; and

Elizabeth Koesterer (AWMD/WEMM)
U.S. Environmental Protection Agency, Region 7
901 North 5th Street
Kansas City, Kansas 66101.

3. Respondent shall provide completed 2009 and 2011 Biennial Reports to Elizabeth Koesterer (AWMD/WEMM), U.S. Environmental Protection Agency, Region 7, 901 North 5th Street, Kansas City, Kansas 66101.

4. No portion 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.

5. This Agreement shall be effective upon the filing of the Final Order by the Regional Hearing Clerk for the EPA, Region 7. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

IT IS SO AGREED.

Name (print): Scott A. Perkins

Title (print): Sr Vice President

Scott A. Perkins

Date August 6, 2012

APPROVED BY EPA:

Donald Toensing

Donald Toensing
Chief

Waste Enforcement and Materials Management Branch
Air and Waste Management Division

Date 8-13-12

Kelley Catlin

Kelley Catlin, Attorney
Office of Regional Counsel

Date 8/13/12

IT IS SO ORDERED:

Robert Patrick

Robert Patrick
Regional Judicial Officer

Date August 15, 2012

IN THE MATTER OF Trimark Corporation, Respondent
Docket No. RCRA-07-2012-0022

CERTIFICATE OF SERVICE

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


Copy hand delivered to
Attorney for Complainant:

Kelley Catlin
Assistant Regional Counsel
Region 7
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by First Class Mail to:

Patti Knowlton
Trimark Corporation
500 Bailey Avenue
New Hampton, Iowa 50659

Dated: 8/15/12


Kathy Robinson
Hearing Clerk, Region 7