

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

Received by
EPA Region 7
Hearing Clerk

In the Matter of:)
)
Weiler, Inc.,) **Docket No. RCRA-07-2023-0076**
Knoxville, Iowa)
)
Respondent)
)

CONSENT AGREEMENT AND FINAL ORDER

PRELIMINARY STATEMENT

The U.S. Environmental Protection Agency (EPA), Region 7 (“Complainant”) and Weiler, Inc. (“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 Section 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.

2. This Consent Agreement and Final Order serves as notice that the EPA has reason to believe that Respondent violated Sections 3001, 3002, and 3005 of RCRA, 42 U.S.C. §§ 6921, 6922, and 6925, and the standards for identification and listing of hazardous waste (40 C.F.R. Part 261 and 262.11), the standards applicable to generators of hazardous waste (40 C.F.R. Part 262), and the standards for universal waste management (40 C.F.R. Part 273).

Parties

1. Complainant is the Chief of the Chemical Branch, Enforcement and Compliance Assurance Division, Region 7, as duly delegated by the Administrator of EPA.

2. Respondent is Weiler, Inc., a corporation authorized to operate under the laws of Iowa.

Statutory and Regulatory Framework

3. 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.

4. RCRA provides guidelines for a waste management program and provides EPA with the authorities found in Sections 3001, 3002, and 3005 of RCRA, 42 U.S.C. §§ 6921, 6922, 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. Parts 262 and 273.

5. 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.

6. 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.

7. 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.

8. 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.

9. 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).

10. 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.

11. 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.

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

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

14. 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.

15. 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).

16. Pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), whenever on the basis of any information the EPA determines that any person has violated or is in violation of any requirement of RCRA, the 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.

17. 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

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

19. Respondent owns and operates a facility located at 815 Weiler Drive, Knoxville, Iowa (“facility”). Respondent is a road construction equipment manufacturer and employs approximately 500 people.

20. On or about February 25, 2013, Respondent notified to EPA of its regulated waste activity as a Large Quantity Generator (LQG) and obtained a RCRA ID number. Respondent’s assigned RCRA ID Number is: IAR000008326.

21. On or about March 16-18, 2022, a representative of EPA 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 Large Quantity Generator of hazardous waste, a Small Quantity Handler of universal waste, and used oil generator.

22. 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. East production area:
 - i. Waste paint related material (WPRM) with methyl ethyl ketone (MEK) in the east production area. The associated waste codes are D001, D035, F003 and F005.
 - ii. One 55-gallon satellite accumulation container of WPRM in the east paint room. The associated waste codes are D001, D035, F003 and F005.
 - iii. Two 55-gallon hazardous waste accumulation containers in the east paint room. The associated waste codes are D001, D035, F003 and F005.
 - iv. MEK distillation bottoms from the east production area. The associated waste codes are D001, D035, F003 and F005.
- b. West production area:
 - i. WPRM with methyl amyl ketone (MAK) in the west production area. The associated waste codes are D001 and F003.
 - ii. One 55-gallon satellite accumulation container of MAK WPRM in the west paint room. The associated waste codes are D001 and F003.
 - iii. Spill cleanup materials from a release of MAK WPRM from the 55-gallon satellite accumulation container located in the west paint room. The associated waste codes are D001 and F003.
- c. Hazardous waste accumulation area: Four 55-gallon hazardous waste accumulation containers in the hazardous waste accumulation area.

23. At the time of the inspection, universal waste aerosol cans and batteries were present.

Violations

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

Count 1

Failure to Conduct Hazardous Waste Determinations

25. Complainant hereby incorporates the allegations contained in Paragraphs 18 through 23 above, as if fully set forth herein.

26. Pursuant to 40 C.F.R. § 262.11, 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.

27. At the time of the inspection, Respondent had not conducted hazardous waste determinations on the following solid waste streams: MEK distillation bottoms and WPRM produced in the east production area carrying the hazardous waste codes D001, D035, F003 and F005; and spill cleanup materials from a release of WPRM from a 55-gallon satellite accumulation container located in the west paint room carrying the hazardous waste codes D001 and F003.

28. Respondent's failure to perform a hazardous waste determination on the above-referenced solid waste streams is a violation of 40 C.F.R. § 262.11.

Count 2

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

29. Complainant hereby incorporates the allegations contained in Paragraphs 18 through 23 above, as if fully set forth herein.

30. Section 3005 of RCRA, 42 U.S.C. § 6925, 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 characteristic or listed hazardous wastes under Subchapter C of RCRA to have a permit or interim status for such activities.

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

Generator Requirements

32. The regulation at 40 C.F.R. § 262.17(a) states that a large quantity generator may accumulate hazardous waste on-site for no more than ninety (90) days without a permit or interim status, and without complying with the requirements of parts 124, 264 through 267, and

279, or the notification requirements of sections 3010 of RCRA provided all the conditions for exemption set forth at 40 C.F.R. § 262.17 are met. If a generator fails to comply with any of these conditions, the generator is not allowed to accumulate hazardous waste at its facility for any length of time. Respondent failed to meet the following conditions:

Labeling and marking of containers

33. The regulation at 40 C.F.R. § 262.17(a)(5) states that the LQG must mark or label its containers with words,

- a. "Hazardous Waste;"
- b. An indication of the hazards of the contents; hazard communication consistent with Department of Transportation requirements; a hazard statement or pictogram consistent with Occupational Safety and Health Administration Hazard Communication Standard; or a chemical hazard label consistent with the National Fire Protection Association; and
- c. The date upon which each period of accumulation begins clearly visible for inspection on each container.

34. At the time of the inspection, the following containers were not appropriately labeled or marked:

- a. The date upon which each period of accumulation began was not clearly visible on three 55-gallon containers of hazardous waste in the central accumulation area.
- b. The date upon which each period of accumulation began was not clearly visible on two 55-gallon containers of hazardous waste in the east paint room.

Emergency Procedures

35. The regulation at 40 C.F.R. § 262.17(a)(6) states that the LQG must comply with the standards in subpart M of this part, Preparedness, Prevention and Emergency Procedures for Large Quantity Generators. The following subpart M standards were not met:

Emergency Procedures: Maintenance and operation of facility

36. Pursuant to 40 C.F.R. § 262.251, the LQG must maintain and operate its facility to minimize the possibility of a 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 the environment.

37. At the time of the inspection, in the west paint area, the inspector observed a 55-gallon container of MAK WPRM with an open bung with an attached, half full funnel of MAK WPRM. The funnel did not form a seal and WPRM was leaking on the top of the container, down the side of the drum and onto the floor below.

Emergency Procedures: Required aisle space

38. Pursuant to 40 C.F.R. § 262.255, the LQG 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, unless aisle space is not needed for any of these purposes.

39. At the time of the inspection, the EPA inspector observed insufficient aisle space at the hazardous waste central accumulation area where at least four 55-gallon containers of hazardous waste were stored too close to allow for the unobstructed movement of personnel, equipment and inspections.

Emergency Procedures: Purpose and implementation of contingency plan

40. Pursuant to 40 C.F.R. § 262.260(a), the LQG must have a contingency plan for the facility and the contingency plan must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water.

41. Pursuant to 40 C.F.R. § 262.260(b), the provisions of the contingency plan must be carried out immediately whenever there is a fire, explosion, or release of hazardous waste or hazardous waste constituents which could threaten human health or the environment.

42. At the time of the inspection, Respondent did not carry out the provisions of the contingency plan when there was a release of MAK WPRM in the west paint area.

Emergency Procedures: Content of contingency plan

43. Pursuant to 40 C.F.R. § 262.261, the following content must be included in the LQG's contingency plan:

- a. The contingency plan must describe arrangements agreed to with the local police department, fire department, other emergency response teams, emergency response contractors, equipment suppliers, local hospitals or, if applicable, the Local Emergency Planning Committee, pursuant to 40 C.F.R. § 262.256. 40 C.F.R. § 262.261(c).
- b. The contingency plan must include a list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems, and decontamination equipment), where this equipment is required. The list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list, and a brief outline of its capabilities. 40 C.F.R. § 262.261(e).

44. At the time of the inspection, Respondent failed to make arrangements with emergency response authorities and failed to include a list and describe emergency equipment, location, and capabilities.

Emergency Procedures: Contingency plan quick reference guide

45. Pursuant to 40 C.F.R. § 262.262(b), whenever the LQG becomes subject to these provisions, or when the LQG is otherwise amending its contingency plan, it must at that time develop a quick reference guide which must meet the standards set forth at 40 C.F.R. § 262.262(b)(1)-(8).

46. At the time of the inspection, Respondent failed to develop a quick reference guide after the contingency plan was amended on March 1, 2022.

Satellite Accumulation

47. The regulation at 40 C.F.R. § 262.15(a) states that an LQG may accumulate as much as fifty-five (55) gallons of non-acute hazardous waste or either one quart of liquid acute hazardous waste listed in § 261.31 or § 261.33(e) of this chapter or 1 kg (2.2 lbs) of solid acute hazardous waste listed in § 261.31 or § 261.33(e) of this chapter in containers at or near any point of generation where wastes are initially accumulated 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. The Respondent failed to comply with the following conditions for exemption for satellite accumulation:

Satellite accumulation container not closed

48. The regulation at 40 C.F.R. § 261.15(a)(4) states that a satellite accumulation container holding hazardous waste must be closed at all times during accumulation except when adding, removing, or consolidating waste.

49. At the time of the inspection, in the west paint area, the inspector observed a 55-gallon container of MAK WPRM. The container had an open bung with an attached, half full funnel of MAK WPRM. The funnel did not form a seal resulting in a container that was not closed and a spill onto the container and ground.

50. At the time of the inspection, the inspector observed one 55-gallon satellite accumulation container located in the east paint room. The small bung on the container was not plugged, and a funnel affixed to the large bung was not fully closed or latched shut.

Satellite accumulation container must be marked or labeled

51. The regulation at 40 C.F.R. § 262.15(a)(5)(i)-(ii) states that a generator must mark or label its satellite accumulation containers with the words "Hazardous Waste" and with an indication of the hazards of the contents (i.e. ignitable, corrosive, reactive, toxic).

52. At the time of the inspection, the inspector observed a 55-gallon satellite accumulation container in the west paint room that was actively spilling WPRM. The container had a sticker indicating flammable liquids, but it had been spray painted over with black paint and was no longer clearly visible and failed to indicate the nature of the hazard.

53. Because Respondent failed to comply with the generator requirements as set forth in Paragraphs 29 through 52 above, Respondent was not authorized to accumulate hazardous waste at its 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 3
Failure to Comply with Universal Waste Management Requirements

54. Complainant hereby incorporates the allegations contained in Paragraphs 18 through 23 above, as if fully set forth herein.

Failure to label universal waste containers

55. The regulations at 40 C.F.R. § 273.13(e) require small quantity handlers of universal waste who puncture and drain their aerosol cans to recycle the empty punctured aerosol cans and establish and follow a written procedure detailing how to safely puncture and drain the universal waste aerosol can (including proper assembly, operation and maintenance of the unit, segregation of incompatible wastes, and proper waste management practices to prevent fires or releases); maintain a copy of the manufacturer's specification and instruction on site; and ensure employees operating the device are trained in the proper procedures.

56. At the time of the inspection, an aerosol can puncturing unit was observed in the wastewater treatment area. The facility stated it did not have a written procedure for detailing how to safely puncture and drain universal waste cans.

57. Respondent's failure to have a written procedure detailing how to safely puncture and drain universal waste cans is a violation of 40 C.F.R. § 273.13(e)(4)(ii).

Failure to date universal waste containers

58. The regulations at 40 C.F.R. § 273.15(c)(1) require small quantity handlers of universal waste to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

59. At the time of the inspection, Respondent failed to label the following containers with the earliest date that any universal waste in the container became a waste or was received:

- a. Two accumulation containers for waste aerosol cans in the wastewater treatment area were not dated.

- b. Four accumulation containers for waste batteries in the production and support areas were not dated.

60. Respondent's failure to label the universal waste containers described above with the earliest date that any universal waste in the container became a waste or was received is a violation of 40 C.F.R. § 273.15(c)(1).

CONSENT AGREEMENT

61. 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.

62. 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.

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

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

65. Respondent consents to receiving an electronic copy of the filed Consent Agreement and Final Order at the following email address: *mweilergreen@weilerproducts.com*.

Penalty Payment

66. Respondent agrees that, in settlement of the claims alleged herein, Respondent shall pay a civil penalty of Fifty-Four Thousand Four Hundred Eighty-Eight dollars (\$54,488), as set forth below.

67. 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 979077
St. Louis, Missouri 63197-9000

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

68. 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

Kelley Catlin, Attorney
catlin.kelley@epa.gov.

69. 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).

Compliance Actions

70. Respondent shall take the following actions within the time periods specified, according to the terms and conditions specified below.

71. Within thirty (30) days of the effective date, Respondent shall submit documentation that confirms that copies of the updated contingency plan and quick reference guide are provided to local emergency authorities.

72. Respondent shall electronically submit all documentation generated to comply with the requirement as set forth in the immediately preceding paragraph to the following address:

Tiffany DeLong, RCRA Section
Chemical Branch
Enforcement and Compliance Assurance Division
delong.tiffany@epa.gov.

Effect of Settlement and Reservation of Rights

73. 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.

74. 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.

75. Respondent certifies by the signing of this Consent Agreement and Final Order that 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.

76. 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.

77. 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.

78. 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.

79. 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.

80. Nothing contained in 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

81. By signing this Consent Agreement, the undersigned representative of Respondent certifies that he or she is fully authorized to execute and enter into the terms and conditions of this Consent Agreement and has the legal capacity to bind the party he or she represents to this Consent Agreement.

82. 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 filing 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.

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

84. Tax Identification. For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii) and 26 C.F.R. § 1.162-21(b)(2), performance of actions set forth in Paragraph 71 are restitution, remediation, or required to come into compliance with the law.

85. 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.

86. 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.

87. The provisions of this Consent Agreement and Final Order shall be deemed satisfied upon a written determination by Complainant that Respondent has fully implemented the actions required in the Final Order.

COMPLAINANT:

U.S. ENVIRONMENTAL PROTECTION AGENCY

Candace Bednar
Chemical Branch Chief
Enforcement and Compliance Assurance Division

Date

Kelley Catlin
Office of Regional Counsel

Date

RESPONDENT:

WEILER, INC.



Signature

4/4/2023

Date

Megan Weiler Green

Printed Name

Counsel

Title

FINAL ORDER

Pursuant to Section 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
(For EPA use only.)

I certify that that a true and correct copy of the foregoing Consent Agreement and Final Order in the matter of Weiler, Inc., EPA Docket No. RCRA-07-2023-0076, was sent this day in the following manner to the addressees:

Kelley Catlin
Office of Regional Counsel
catlin.kelley@epa.gov

Tiffany DeLong
Enforcement and Compliance Assurance Division
delong.tiffany@epa.gov

Copy via Email to Respondent:

Megan Green, Counsel
Weiler, Inc.
mweilergreen@weilerproducts.com

Copy via Email to the State of Iowa:

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

Mike Sullivan, Chief
Contaminated Sites Section
Iowa Department of Natural Resources
michael.sullivan@dnr.iowa.gov

Dated this _____ day of _____, _____.

Signed