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

In the Matter of:	)	
	)	
Miller Products Company	)	
	)	
Respondent	)	**Docket No.** RCRA-07-2025-0083
	)	
	)	

CONSENT AGREEMENT AND FINAL ORDER

PRELIMINARY STATEMENT

The U.S. Environmental Protection Agency (EPA), Region 7 ("Complainant") and Miller Products Company ("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.

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 Miller Products Company, a company organized and authorized to operate under the laws of Iowa.

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 3002, 3004, and 3005 of RCRA, 42 U.S.C. §§ 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. Parts 262 and 279.

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 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.

8. 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.

9. 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.

10. 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).

11. 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.

12. 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.

13. 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 constitute thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

14. "Solid waste" is defined at 40 C.F.R § 261.2.

15. "Hazardous waste" is defined at 40 C.F.R. § 261.3.

16. 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.

17. 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.

18. 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).

19. 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.

20. 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 $124,426 for violations that occur after November 2, 2015, and for which penalties are assessed on or after January 8, 2025. 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

21. Respondent is a company 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).

22. Respondent owns and operates a facility located at 1015 N. Main Street, Osceola, Iowa 50213 (hereinafter the "Facility"). Respondent's facility is a contract screw machine shop and manufacturer of non-threaded fasteners. Respondent employs approximately 38 people.

23. On or about February 12, 1997, Respondent notified to EPA of its regulated waste activity as a Small Quantity Generator (SQG) and obtained the following RCRA ID number: IAD00527572.

24. On or about November 15, 2023, EPA inspectors 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 of hazardous waste, a Small Quantity Handler of universal waste, and used oil generator.

Violations

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

Count 1

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

26. Complainant hereby incorporates the allegations contained in Paragraphs 1 through 25 above, as if fully set forth herein.

27. 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 hazardous wastes identified or listed under Subchapter C of RCRA to have a permit or interim status for such activities.

28. At the time of the Inspection, Respondent did not have a permit or interim status.

Generator Requirements

29. The regulation at 40 C.F.R. § 262.16 states that a small quantity generator may accumulate hazardous waste on-site for no more than one hundred eighty (180) days without a permit or interim status, and without complying with the requirements of parts 124, 264 through 267, and 270, or the notification requirements of sections 3010 of RCRA provided all the conditions for exemption set forth at 40 C.F.R. § 262.16 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 comply with the following conditions:

Accumulation

30. Pursuant to 40 C.F.R. § 262.16(b), an SQG may accumulate hazardous waste on site for no more than 180 days, unless in compliance with the conditions for exemption for longer accumulation in paragraphs (c), (d), and (e) of this section.

31. Pursuant to 40 C.F.R. § 262.16(c), an SQG who must transport its waste, or offer its waste for transportation, over a distance of 200 miles or more for off-site treatment, storage, or disposal may accumulate hazardous waste on site for up to 270 days.

32. At the time of the Inspection, no accumulation extensions or exemptions were in effect.

33. At the time of the Inspection, the inspector observed four hazardous waste accumulation containers with accumulation start dates more than 180 days prior to the Inspection, one of which had an accumulation start date more than 270 days prior to the date of the Inspection.

34. Following the Inspection, Respondent transported the four hazardous waste accumulation containers to a treatment, storage, and disposal facility more than 200 miles away.

35. By storing hazardous waste on-site for greater than 270 days, Respondent was operating as a hazardous waste storage facility and subjected itself to the requirements of 40 C.F.R. Parts 264, 265, and the permit requirements of 40 C.F.R. Part 270.

Management of containers

36. The regulation at 40 C.F.R. § 262.16(b)(2)(iii)(A) states that a container holding hazardous waste must always be closed during accumulation, except when it is necessary to add or remove waste.

37. At the time of the Inspection, the inspector observed a hazardous waste accumulation container holding waste filter cake sludge (D007) that was not closed.

Inspections

38. The regulation at 40 C.F.R. § 262.16(b)(2)(iv) states that the SQG must conduct weekly inspections of its central accumulation areas. The SQG must look for leaking containers and for deterioration of containers caused by corrosion or other factors.

39. At the time of the Inspection, the inspector observed that the Facility had not been conducting weekly inspections of its central accumulation area.

Labeling and marking of containers

40. The regulation at 40 C.F.R. § 262.16(b)(6)(i) states that the SQG must mark or label its containers with:

> (A) The words "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.

41. At the time of the Inspection, the inspector observed that the Facility had six hazardous waste accumulation containers holding waste filter cake sludge (D007) that were not labeled with: 1) the words "hazardous waste"; 2) an indication of the nature of the hazard; and 3) the accumulation start date.

Emergency Procedures: Required equipment

42. Pursuant to 40 C.F.R. § 262.16(b)(8)(ii)(B), all areas where hazardous waste is generated or accumulated on site must be equipped with a device, such as a telephone or hand-held two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or state or local emergency response teams.

43. At the time of the Inspection, the Facility had not provided a working device for summoning emergency assistance at its central accumulation area.

Personnel Training: Program of instruction

44. Pursuant to 40 C.F.R. § 262.16(b)(9)(iii), the SQG must ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relevant to their responsibilities during normal facility operations and emergencies.

45. During the course of the Inspection, the inspector observed that not all employees at the Facility were thoroughly familiar with waste handling procedures.

Satellite Accumulation

46. The regulation at 40 C.F.R. § 262.15(a) states that an SQG 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:

Container must be marked or labeled

47. Pursuant to 40 C.F.R. §§ 262.15(a)(5)(i) and (ii), a generator must mark or label its container with the words "Hazardous Waste" and with an indication of the hazards of the contents (i.e. ignitable, corrosive, reactive, toxic).

48. At the time of the Inspection, the inspector observed a satellite accumulation container holding waste filter cake sludge (D007) that was not labeled with the words "Hazardous Waste" or an indication of the nature of the hazard.

49. Because Respondent failed to comply with the generator requirements as set forth in Paragraphs 1 through 25 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 or interim status in violation of Section 3005 of RCRA, 42 U.S.C. § 6925.

Count 2
Failure to Comply with Used Oil Regulations

50. Complainant hereby incorporates the allegations contained in Paragraphs 1 through 25 above, as if fully set forth herein.

Failure to label used oil containers

51. The regulations at 40 C.F.R. § 279.22(c)(1) 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."

52. At the time of the Inspection, the Facility was generating approximately 26 gallons of used oil per year, which were stored in six 55-gallon used oil containers.

53. At the time of the Inspection, Respondent failed to label or clearly mark four used oil containers with the words "Used Oil."

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

CONSENT AGREEMENT

55. 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.

56. By signing this consent agreement, Respondent waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the final order accompanying the consent agreement.

57. Respondent consents to the issuance of this Consent Agreement and Final Order.

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

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

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

Penalty Payment

61. In assessing a civil penalty, EPA has considered the seriousness of the violations and any good faith efforts to comply with the applicable requirements pursuant to Section 3008(a)(3), 42 U.S.C. § 6928(a)(3). Ability to pay is considered a mitigating factor in EPA's RCRA Civil Penalty Policy (June 2003). Respondent has demonstrated that it is unable to pay any of the penalty in this matter. Because of Respondent's inability to pay the penalty, therefore, Complainant conditionally agrees to resolve the claims alleged herein without payment of a civil penalty.

Effect of Settlement and Reservation of Rights

62. Execution of 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.

63. 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.

64. 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.

65. Execution of 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.

66. 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.

67. 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.

68. 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.

69. 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

70. 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.

71. 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.

72. 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.

73. 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 Digitally signed by DAVID COZAD
Date: 2025.06.03 07:56:52 -05'00'

Date

David Cozad
Director
Enforcement and Compliance Assurance Division

SAMUEL BENNETT Digitally signed by SAMUEL BENNETT
Date: 2025.06.03 14:23:05 -05'00'

Date

Sam Bennett
Office of Regional Counsel

RESPONDENT:

Miller Products Company

5/30/25
Date

Signature

Kerry Richardson
Printed Name

President
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
Digitally signed by KARINA BORROMEO
Date: 2025.06.04 12:46:40 -05'00'

Karina Borromeo
Regional Judicial Officer

Date

CERTIFICATE OF SERVICE

I certify 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

Kevin Snowden
Enforcement and Compliance Assurance Division
snowden.kevin@epa.gov

Carrie Venerable
Office of Regional Counsel | New Solutions Workforce
venerable.carrie@epa.gov

Copy via Email to Respondent:

Kerry Richardson
Miller Products Company
kerry@millerproductsco.com

Copy via Email to the State of Iowa:

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

Mike Sullivan, Chief (e-copy)
Contaminated Sites Section
Iowa Department of Natural Resources
michael.sullivan@dnr.iowa.gov

Dated this _____ day of _____, _____.

AMY GONZALES Digitally signed by AMY GONZALES
Date: 2025.06.04 13:50:54 -05'00'

Signed