

8:30AM

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 7

Received by
EPA Region 7
Hearing Clerk

In the Matter of)	
)	
Energy Mfg. Co., Inc.)	Docket No. RCRA-07-2022-0132
204 Plastic Lane)	
Monticello, Iowa 52310)	EXPEDITED SETTLEMENT
EPA ID: IAD984590794)	AGREEMENT AND FINAL ORDER
)	
<u>Respondent.</u>)	

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(a) of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6928(a), and 40 C.F.R. § 22.13(b).
- 2) The EPA has provided the State of Iowa with notice of the referenced violations of Subtitle C of RCRA as required by Section 3008(a)(2).
- 3) Energy Mfg. Co. Inc. (“Respondent”) is the owner or operator of the facility located at 7 Plastic Lane in Monticello, Iowa (“Facility”). The EPA inspected the Facility on February 3, 2022. As a result of the findings during the inspection and additional investigation, the EPA alleges that Respondent violated the following requirements of the RCRA hazardous waste management program:
 - a. 40 C.F.R. § 262.11 requires that a generator of solid waste 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. At the time of the EPA inspection, three waste streams were identified for which the facility had not made an accurate hazardous waste determination. Respondent’s failure to perform hazardous waste determinations on the following waste streams is a violation of 40 C.F.R. § 262.11:
 - i. One 4-foot container of waste fluorescent lamps;
 - ii. One 5-gallon container of waste batteries; and
 - iii. Solvent contaminated shop rags.
 - b. 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 a 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 that small quantity generator of hazardous waste must inspect central accumulation areas at least weekly. The EPA inspection revealed that Respondent failed to conduct weekly inspections of one 55-gallon storage container of waste paint related material.
 - c. 40 C.F.R. § 262.18(d)(1) requires that a small quantity generator of hazardous waste must re-notify EPA regarding its hazardous waste activity starting in 2021 and every four years thereafter using EPA Form 8700-12. The EPA inspection revealed that Respondent failed to re-notify EPA regarding its hazardous waste activity in 2021.
- 4) In determining the amount of the penalty to be assessed, EPA has taken into account the factors specified in Section 3008 of RCRA, 42 U.S.C. § 6928. After considering these factors, EPA has determined, and Respondent agrees that settlement of this matter for a civil penalty of Six Thousand Two Hundred Fifty Dollars (\$6,250.00) 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; and

Milady Peters, Paralegal
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: *blatusick@energymfg.com*. Respondent understands that the ESA will become publicly available upon filing.

- 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,

Brian Latusick

Name (print)

Human Resources Manager

Title (print)

B Latusick

Signature

10-20-2022

Date

APPROVED BY EPA:

Candace Bednar
Chemical Branch Chief
Enforcement and Compliance Assurance Division

Date

Britt Bieri, Attorney
Office of Regional Counsel

Date

FINAL ORDER

Pursuant to the authority of 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 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 Expedited Settlement Agreement and Final Order, EPA Docket No. RCRA-07-2022-0132, was sent this day in the following manner to the following addressees:

Copy via e-mail to Complainant:

Britt Bieri, Office of Regional Counsel
bieri.britt@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 Latusick
Human Resource Manager
Energy Mfg. Co., Inc.
blatusick@energymfg.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 _____, _____.

Signed