

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 7

Received by
EPA Region 7
Hearing Clerk

In the Matter of)	
)	
Loparex LLC)	Docket No. RCRA-07-2022-0071
Iowa City, Iowa)	
EPA ID Number: IAD050691617)	
)	EXPEDITED SETTLEMENT
Respondent.)	AGREEMENT AND FINAL ORDER

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) Loparex LLC (“Respondent”) is the owner or operator of the facility located at 2000 Industrial Avenue, Iowa City, IA (“Facility”). The EPA inspected the Facility on October 26, 2021. The EPA alleges that Respondent violated the following requirements of the RCRA hazardous waste management program:
 - a. 40 C.F.R. § 262.15(a) states that a generator may accumulate as much as fifty-five (55) gallons of non-acute hazardous waste or either one quart of liquid acute hazardous waste or 1 kg (2.2 lbs) of solid acute hazardous waste 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. Because Respondent failed to comply with the satellite accumulation conditional exclusion described below, Respondent was not authorized to accumulate hazardous waste at the satellite accumulation areas 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.
 - i. 40 C.F.R. § 262.15(a)(4) requires that a satellite accumulation container holding hazardous waste must be closed at all times during accumulation. At the time of the EPA inspection, four satellite accumulation containers holding hazardous waste were open. Because Respondent failed to keep satellite accumulation containers closed, Respondent did not meet the conditions for

exemption in 40 C.F.R. § 262.15(a)(4), and therefore was operating a hazardous waste storage facility without a permit in violation of Section 3005 of RCRA, 42 U.S.C. § 6925.

- b. 40 C.F.R. § 262.17 states that a large quantity generator (LQG) may accumulate hazardous waste on site without a permit or interim status, and without complying with the requirements of parts 124, 264 through 267, and 270 of this chapter, or the notification requirements of section 3010 of RCRA, provided that all of the following conditions for exemption in this section are met. Because Respondent failed to comply with the accumulation conditional exclusions described below, Respondent was not authorized to accumulate hazardous waste at the satellite accumulation areas 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.
- i. 40 C.F.R. § 262.17(a)(1)(iv)(A) requires that a container holding hazardous waste must always be closed during accumulation, except when it is necessary to add or remove waste. Further, 40 C.F.R. § 262.1086(b)(1)(i) requires control of air pollutant emissions from a container with a design capacity greater than 0.1 m³ and less than or equal to 0.46 m³ in accordance with Level 1 standards. 40 C.F.R. § 262.1086(c) requires that a container using Level 1 controls must either meet the applicable U.S. Department of Transportation regulations on packaging hazardous materials for transportation; form a continuous barrier over the container openings such that, when secured, there are no visible holes, gaps, or other open spaces into the interior of the container; or have an open-top container in which an organic-vapor suppressing barrier is placed on or over the hazardous waste in the container such that no hazardous waste is exposed to the atmosphere. 49 C.F.R. § 178.504 requires that closures for openings in the bodies and heads of drums must be so designed and applied that they will remain secure and leakproof under normal conditions of transport. At the time of the EPA inspection, 39 containers had an unstable plastic plug inserted into the top. These plugs did not meet either (1) the DOT regulations requiring a secure and leakproof closure found in 49 C.F.R. § 178.504, nor (2) the alternatives set forth in 40 C.F.R. § 262.1086(c). Because Respondent failed to keep these containers closed, Respondent did not meet the conditions for exemption in 40 C.F.R. § 262.17(a)(1)(iv)(A), and therefore was operating a hazardous waste storage facility without a permit in violation of Section 3005 of RCRA, 42 U.S.C. § 6925.
- ii. 40 C.F.R. § 262.17(a)(6) requires that a LQG must comply with the standards set forth in 40 C.F.R. § 262.262, which requires that a LQG that first becomes subject to these provisions after May 30, 2017 or a LQG that is otherwise amending its contingency plan must at that time submit a quick reference guide of the contingency plan to certain local emergency responders. That quick reference guide must include all the elements set forth in 40 C.F.R.

§ 262.262(b). At the time of the EPA inspection, Respondent failed to include in its quick reference guide (1) the types/names of hazardous wastes in layman's terms and the associated hazard associated with each hazardous waste present at any one time; (2) the estimated maximum amount of each hazardous waste that may be present at any one time; (3) a map of the facility showing where hazardous wastes are generated, accumulated and treated and routes for accessing these wastes; and (4) a street map of the facility in relation to surrounding businesses, schools and residential areas to understand how best to get to the facility and also evacuate citizens and workers. Because Respondent failed to include these elements in its quick reference guide, it did not meet the condition for exemption listed in 40 C.F.R. § 262.17(a)(6) and therefore was operating a hazardous waste storage facility without a permit in violation of Section 3005 of RCRA, 42 U.S.C. § 6925.

- iii. 40 C.F.R. § 262.17(a)(6) requires that a LQG must comply with the standards set forth in 40 C.F.R. § 262.264, which requires that an emergency coordinator must be thoroughly familiar with all aspects of the generator's contingency plan. At the time of the EPA inspection, two of the facility's emergency coordinators had not received site-specific training for hazardous waste contingencies and emergencies. Because Respondent failed ensure its emergency coordinators were thoroughly familiar with all aspects of the contingency plan, it did not meet the condition for exemption listed in 40 C.F.R. § 262.17(a)(6) and therefore was operating a hazardous waste storage facility without a permit in violation of Section 3005 of RCRA, 42 U.S.C. § 6925.
- iv. 40 C.F.R. § 262.17(a)(7)(iv) requires that a LQG must maintain certain documents and records at the facility regarding each position related to hazardous waste management. At the time of the EPA inspection, Respondent had designated four hazardous waste emergency coordinators, but the job descriptions of these four positions did not include that they were hazardous waste emergency coordinators. Additionally, three other positions involved with hazardous waste management did not include in their job descriptions any involvement with hazardous waste. Because Respondent failed to maintain documents and records of hazardous waste involvement in various job descriptions, it did not meet the condition for exemption listed in 40 C.F.R. § 262.17(a)(7)(iv) and therefore was operating a hazardous waste storage facility without a permit in violation of Section 3005 of RCRA, 42 U.S.C. § 6925.

- 4) The EPA and Respondent agree that settlement of this matter for a civil penalty of six thousand, two hundred and 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: mark.hayes@loparex.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,

David LaFlamme
Name (print)

SVP, Global Manufacturing Operations
Title (print)

David LaFlamme 20 May 2022
Signature Date

APPROVED BY EPA:

Candace Bednar
Chemical Branch Chief
Enforcement and Compliance Assurance Division

Date

Katherine Kacsur, Attorney
Office of Regional Counsel

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:

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

Edwin Buckner, Enforcement and Compliance Assurance Division
buckner.edwin@epa.gov

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

Copy via e-mail to Respondent:

Mr. Mark Hayes
Inventory Control Coordinator
Loparex LLC
mark.hayes@loparex.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