

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 7**

**In the Matter of**

Godbersen-Smith Construction  
Company d/b/a Gomaco  
Corporation  
5913 E Highway 175  
Ida Grove, Iowa 51445  
EPA ID: IAD984568527

**Respondent.**

**Docket No. RCRA-07-2024-0033**

**EXPEDITED SETTLEMENT  
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(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) Godbersen-Smith Construction Company d/b/a Gomaco Corporation (“Respondent”) is the owner or operator of the facility located at 5913 E Highway 175, Ida Grove, Iowa 51445 (“Facility”). The EPA inspected the Facility, on March 29, 2023. 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. § 262.15(a)(4) - A container holding hazardous waste must be closed at all times during accumulation, except: (i) When adding, removing, or consolidating waste; or (ii) When temporary venting of a container is necessary for the proper operation of equipment or to prevent dangerous situations, such as build-up of extreme pressure. The EPA determined that the Respondent did not close two 5-gallon hazardous waste satellite accumulation containers of spent solvent/waste paint related material in the Topcoat Paint Booth.
  - 40 C.F.R. § 262.15(a)(5)(i) - A generator must mark or label its container with the words “Hazardous Waste.” The EPA determined that the Respondent did not mark or label a total of four 5-gallon hazardous waste satellite accumulation containers of spent solvent/waste paint related material with the words “Hazardous Waste” in the Prime Coat Paint Booth and the Topcoat Paint Booth.

- 40 C.F.R. § 262.15(a)(5)(ii) - A generator must mark or label its container with an indication of the hazards of the contents. The EPA determined that the Respondent did not mark or label the indication of hazards on a total of four 5-gallon hazardous waste satellite accumulation containers of spent solvent/waste paint related material in the Prime Coat Paint Booth and the Topcoat Paint Booth.
- b. 40 C.F.R. § 262.17(a)(6) referencing 40 C.F.R. § 262.261(d) - The contingency plan must list names and emergency telephone numbers of all persons qualified to act as emergency coordinator and this list must be kept up to date. The EPA determined that the list of emergency coordinators was not up-to-date and emergency telephone numbers of the emergency coordinators were not listed.
- 40 C.F.R. § 262.17(a)(6) referencing 40 C.F.R. § 262.261(e) - The contingency plan must include a list of all emergency equipment at the facility and the location and physical description of the equipment and brief outline of its capabilities. The EPA determined that the contingency plan did not list the location, physical description and capabilities of all emergency equipment.
- 40 C.F.R. § 262.17(a)(6) referencing 40 C.F.R. § 262.262(a) - A large quantity generator must submit a copy of the contingency plan and all revisions to all local emergency responders. The EPA determined that the Respondent did not submit a copy of the contingency plan to local emergency responders or to the Local Emergency Planning Committee.
- 40 C.F.R. § 262.17(a)(6) referencing 40 C.F.R. § 262.262(b) - A large quantity generator that first becomes subject to 40 C.F.R. § 262.262 after May 30, 2017 or a large quantity generator that is otherwise amending its contingency plan must at that time submit a quick reference guide of the contingency plan to the local emergency responders identified at 40 C.F.R. § 262.262(a) or, as appropriate, the Local Emergency Planning Committee. The EPA determined that the Respondent did not submit a quick reference guide to the local emergency responders or to the Local Emergency Planning Committee.
- c. 40 C.F.R. § 262.17(a)(7)(iv)(C) - A large quantity generator must maintain a written description of the type and amount of both introductory and continuing training that will be given to each person filling a hazardous waste management position. The EPA determined that the Respondent did not maintain a written description of the type and amount of both introductory and continuing training for each hazardous waste management position.
- d. 40 C.F.R. § 273.14(e) - A small quantity handler of universal waste must label or mark the universal waste to identify the type of universal waste. Each lamp or a container or package in which such lamps are contained must be labeled or marked clearly with one of the following phrases: “Universal Waste – Lamp(s),” or “Waste Lamp(s),” or “Used Lamp(s).” The EPA determined that the Respondent did not

properly label one 4-foot cardboard container of universal waste-lamps and one 8-foot cardboard container of universal waste-lamps in the Maintenance Shop.

40 C.F.R. § 273.15(c) - A small quantity handler of universal waste must who accumulates universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. The EPA determined that the Respondent did not demonstrate the length of time of accumulation for one 4-foot cardboard container of universal waste-lamps in the Maintenance Shop.

- 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 twelve thousand five hundred dollars (\$12,500.00) is in the public interest.
- 5) 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>.

- 6) 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](mailto:R7_Hearing_Clerk_Filings@epa.gov); and

Milady Peters, Paralegal  
[peters.milady@epa.gov](mailto:peters.milady@epa.gov).

- 7) In signing this Agreement, Respondent: (a) admits that Respondent is subject to RCRA and its implementing regulations; (b) admits that EPA has jurisdiction over Respondent and Respondent's conduct as alleged herein, (c) neither admits nor denies the factual allegations contained herein; (d) consents to the assessment of this penalty; (e) waives the opportunity for a hearing to contest any issue of fact or law set forth herein; (f) waives its right to appeal the Final Order accompanying this Agreement pursuant to Section 3008(b) of RCRA; and (g) consents to electronic service of the filed ESA to the following email

address: [benner@gomaco.com](mailto:benner@gomaco.com). Respondent understands that the ESA will become publicly available upon filing.

- 8) By its signature below Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that: (a) the alleged violations have been corrected, and (b) 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.
- 9) The undersigned representative of Respondent certifies that he or she is fully authorized to enter the terms and conditions of this Expedited Settlement Agreement and to execute and legally bind Respondent to it.
- 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 Petersen  
Name (print)  
VP Finance & Administration  
Title (print)  
David L. Petersen                      2-14-2024  
Signature    Date

APPROVED BY EPA:

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David Cozad  
Director  
Enforcement and Compliance Assurance Division

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Date

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Christopher Muehlberger, Attorney  
Office of Regional Counsel

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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.

Respondent is ORDERED to comply with all of the terms of the Expedited Settlement Agreement. 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.

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Karina Borromeo  
Regional Judicial Officer

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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, in the matter of Godbersen-Smith Construction Company d/b/a Gomaco Corporation, EPA Docket No. RCRA-07-2024-0033, was sent this day in the following manner to the following addressees:

Copy via e-mail to Complainant:

Christopher Muehlberger, Office of Regional Counsel  
*Muehlberger.christopher@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:

Sean Benner  
Manufacturing Engineering Manager  
Godbersen-Smith Construction Company  
d/b/a Gomaco Corporation  
Plant 2, 5913 East Highway 175  
Ida Grove, Iowa 51445  
(*benner@gomaco.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 \_\_\_\_\_, 2024.

\_\_\_\_\_  
Signed