

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 7

Received by
EPA Region 7
Hearing Clerk

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| In the Matter of |) | |
| |) | |
| State Hygienic Laboratory |) | Docket No. RCRA-07-2022-0026 |
| Ankeny, Iowa |) | |
| EPA ID. No. IAR000505297 |) | EXPEDITED SETTLEMENT |
| |) | AGREEMENT AND FINAL ORDER |
| Respondent. |) | |

EXPEDITED SETTLEMENT AGREEMENT

1. The U.S. Environmental Protection Agency (“EPA”) is authorized to enter into this Expedited Settlement Agreement (“Agreement”) pursuant to Section 3008 of the Resource Conservation and Recovery Act (“RCRA”) 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. State Hygienic Laboratory (“Respondent”) is the owner or operator of the facility at 2220 S. Ankeny Boulevard, Ankeny, Iowa (“Facility”). The EPA inspected the Facility, on January 5-6, 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 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. § 262.15(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.
 - ii. 40 C.F.R. § 262.15(a)(5)(i) requires that a generator mark or label satellite accumulation containers with the words “Hazardous Waste.” At the time

- of the EPA inspection, five satellite accumulation containers holding hazardous waste were not labeled with the words “Hazardous Waste.”
- iii. 40 C.F.R. § 262.15(a)(5)(ii) requires that a generator mark or label satellite accumulation containers with an indication of the hazards of the contents. At the time of the EPA inspection, eleven satellite accumulation containers holding hazardous waste were not labeled with an indication of hazards of the contents.
- 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. Part 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 at least weekly, the SQG must inspect central accumulation areas looking for leaking containers and for deterioration of containers caused by corrosion or other factors. At the time of the EPA inspection, Respondent failed to adequately inspect a hazardous waste container accumulation area.
 - ii. 40 C.F.R. § 262.16(b)(6)(i)(A) requires that a SQG mark or label its containers with the words “Hazardous Waste.” At the time of the EPA inspection, four hazardous waste accumulation containers were not marked or labeled with the words “Hazardous Waste.”
 - iii. 40 C.F.R. § 262.16(b)(6)(i)(B) requires that a SQG must mark or label its containers with an indication of the hazards of the contents. At the time of the EPA inspection, ten hazardous waste accumulation containers were not marked or labeled with the indication of the hazards of the contents.
 - iv. 40 C.F.R. § 262.16(b)(6)(i)(C) requires that a SQG must mark or label its containers with the date upon which each period of accumulation begins clearly visible for inspection on each container. At the time of the EPA inspection, four hazardous waste accumulation containers were not marked or labeled with the date upon which accumulation began.
 - v. 40 C.F.R. § 262.16(b)(8)(i) requires that a SQG 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. At the time of the EPA inspection, a 20-liter satellite accumulation container holding corrosive-only waste was perched atop an overturned secondary containment bin and an unprotected spigot was sticking out into the walkway between lab benches.

- vi. 40 C.F.R. § 262.16(b)(9)(i) requires that a SQG must have, at all times, at least one emergency coordinator. At the time of the EPA inspection, Respondent did not have a designated emergency coordinator.
 - vii. 40 C.F.R. § 262.16(b)(9)(ii) requires that a SQG must post the name and emergency telephone number of the emergency coordinator, location of fire extinguishers and spill control material, and telephone number of the fire department next to telephones or in areas directly involved in the generation and accumulation of hazardous waste. At the time of the EPA inspection the emergency information was not posted next to a telephone or areas directly involved in the generation and accumulation of hazardous waste.
 - viii. 40 C.F.R. § 262.16(b)(9)(iii) requires that a 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. At the time of the EPA inspection, Respondent's employees were not thoroughly familiar with proper waste handling and emergency procedures.
- c. 40 C.F.R. § 279.22(c)(1) requires that containers used to store used oil at generator facilities must be labeled or marked clearly with the words "used Oil." At the time of the EPA inspection, one used oil container was not labeled with the words "Used Oil." Respondent's failure to label the containers of used oil described above is a violation of 40 C.F.R. § 279.22(c)(1).
4. The EPA and Respondent agree that settlement of this matter for a civil penalty of fifteen thousand dollars (\$15,000.00) is in the public interest.
 5. 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.
 6. 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.
 7. 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.

8. 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.
9. Each party shall bear its own costs and fees, if any.
10. This Agreement is binding on the parties signing below.

APPROVED BY EPA:

Candace Bednar
Chemical Branch Chief
Enforcement and Compliance Assurance Division

Date

Kelley Catlin, 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:

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

Marc Matthews, Enforcement and Compliance Assurance Division
Matthews.Marc@epa.gov

Copy via e-mail to Respondent:

Michael A. Pentella, Ph.D, Director
State Hygienic Laboratory
michael-pentella@uiowa.edu

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

Amie Davidson, Chief
Contaminated Sites Section
Iowa Department of Natural Resources
amie.davidson@dnr.iowa.gov

Dated this _____ day of _____, _____.

Signed