

FILED

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**U.S. EPA REGION 7
HEARING CLERK**

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 7**

In the Matter of

Bazooka Farmstar, LLC
800 E. 7th Street
Washington, Iowa 52353
EPA ID: IAD005285721

Respondent.

Docket No. RCRA-07-2024-0034

**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) Bazooka Farmstar LLC (“Respondent”) is the owner or operator of the facility located at 800 E 7th Street, Washington, Iowa 52353 (“Facility”). The EPA inspected the Facility on April 13-14, 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 one 55-gallon hazardous waste satellite accumulation container of still bottoms in the Paint Booth Area.

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 one 55-gallon hazardous waste satellite accumulation container of still bottoms and one 55-gallon hazardous waste satellite accumulation container of aerosol puncturing waste with the words “Hazardous Waste” in the Paint Booth Area.

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 mark or label the indication of hazards on one 55-gallon hazardous waste satellite

accumulation container of still bottoms in the Paint Booth Area.

40 C.F.R. § 262.16(b)(2)(iii)(A) - A container holding hazardous waste must always be closed during accumulation, except when it is necessary to add or remove waste. The EPA determined that the Respondent did not close one 55-gallon hazardous waste storage container of waste paint outside of the Paint Booth Area.

40 C.F.R. § 262.16(b)(2)(iv) - At least weekly, a small quantity generator must inspect central accumulation areas for leaking containers and for deterioration of containers caused by corrosion or other factors. The EPA determined that the Respondent did not conduct weekly hazardous waste inspections.

40 C.F.R. § 262.16(b)(6)(i)(A) - A small quantity generator must mark or label its containers "Hazardous Waste." The EPA determined that the Respondent did mark or label one 55-gallon hazardous waste storage container of waste paint (Paint Booth Area) and one 55-gallon hazardous waste storage container of waste paint (Central Accumulation Area) with the words "Hazardous Waste."

40 C.F.R. § 262.16(b)(6)(i)(B) - A small quantity generator must mark or label its containers An indication of the hazards of the contents. The EPA determined that the Respondent did mark or label the indication of hazards on one 55-gallon hazardous waste storage container of waste paint in the Central Accumulation Area.

40 C.F.R. § 262.16(b)(6)(i)(C) - A small quantity generator must mark or label its containers with the date upon which each period of accumulation begins. The EPA determined that the Respondent did mark or label the accumulation start date on one 55-gallon hazardous waste storage container of waste paint (Paint Booth Area) and one 55-gallon hazardous waste storage container of waste paint (Central Accumulation Area).

- b. 40 C.F.R. § 262.16(b)(7) referencing 40 C.F.R. § 268.7(a)(2) - With the initial shipment of waste to each treatment, storage, or disposal facility, the generator must send a one-time written notice to each treatment, storage, or disposal facility receiving the waste (meeting or not meeting the treatment standards) and place a copy in the file. The EPA determined that the Respondent did not prepare land disposal restriction notices to include the F005 hazardous waste code for off-site disposal shipments of waste paint and still bottoms.
- c. 40 C.F.R. § 262.20(a)(1) - A generator that transports or offers for transport a hazardous waste for offsite treatment, storage, or disposal must prepare a manifest. The EPA determined that the Respondent did not prepare manifests to include the F005 hazardous waste code for off-site disposal shipments of waste paint and still bottoms.
- d. 40 C.F.R. § 279.22(c)(1) - Containers used to store used oil at generator facilities must be labeled or marked clearly with the words "Used Oil." The EPA determined

that the Respondent did not label one 55-gallon used oil storage container in the Maintenance Area.

- e. 40 C.F.R. § 279 Subpart H (40 C.F.R. § 279.71 through 279.75. - Any person who directs a shipment of off-specification used oil from their facility to a used oil burner or the first to claim that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in § 279.11 are marketers of used oil and are subject to 40 C.F.R. Part 279 Subpart H (prohibitions, analyses, recordkeeping, and notification requirements). The EPA determined that the Respondent did not ensure that off-spec used oil is only shipped to a used oil burner who has an EPA ID number and burns the used in an industrial furnace or boiler identified in 40 C.F.R. § 279.61(a), did not obtain a certification of compliance from the burner prior to the first shipment of off-spec used oil, and did not maintain records of shipments of off-spec used oil.
- 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 fifteen thousand dollars (\$15,000.00) 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 979078
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; and
- Milady Peters, Paralegal
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: *arussell@bazookafarmstar.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,

Eric Hahn

Name (print)

Managing Partner

Title (print)



Signature

2-1-24

Date

APPROVED BY EPA:

David Cozad
Director
Enforcement and Compliance Assurance Division

Date

Christopher Muehlberger, 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.

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.

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, in the matter of Bazooka Farmstar LLC, EPA Docket No. RCRA-07-2024-0034, 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 (counsel for) Respondent:

Amanda Russell
Bazooka Farmstar LLC
800 East 7th Street
Washington, Iowa 52353
arussell@bazookafarmstar.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