

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY-REGION 7

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BOULEVARD
LENEXA, KANSAS 66219

In the Matter of:

PQ Corporation,

Respondent.

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Docket No. RCRA-07-2018-0224

CONSENT AGREEMENT AND FINAL ORDER

PRELIMINARY STATEMENT

The U.S. Environmental Protection Agency (“EPA”), Region 7 (“Complainant”) and PQ Corporation (“Respondent”) have agreed to a settlement of this action before the filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 Code of Federal Regulations (“C.F.R.”) §§ 22.13(b) and 22.18(b)(2).

ALLEGATIONS

Jurisdiction

1. This administrative action is being conducted pursuant to Section 3008(a) and (g) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (“RCRA”), and the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. § 6928(a) and (g), and in accordance with the Consolidated Rules of Practice.

2. This Consent Agreement and Final Order serves as notice that the EPA has reason to believe that Respondent violated Kansas Statute Annotated 65-3431, Sections 3002 and 3005 of RCRA, 42 U.S.C §§ 6922 and 6925, and Kansas regulations which incorporate by reference certain federal regulations for the standards applicable to generators of hazardous waste (40 C.F.R. Part 262).

Parties

3. The Complainant is the Branch Chief of the Waste Enforcement and Materials Management branch in the Air and Waste Management Division of EPA, Region 7, as duly delegated by the Administrator of EPA.

4. The Respondent is PQ Corporation, a Pennsylvania corporation authorized to operate under the laws of Kansas.

Statutory and Regulatory Framework

5. RCRA was enacted to address the volumes of municipal and industrial solid waste generated nationwide in order to protect human health and the environment from potential hazards of waste disposal, conserve energy and natural resources, reduce the amount of waste generated, and ensure that wastes are managed in an environmentally sound manner.

6. RCRA provides guidelines for a waste management program and provides EPA with the authorities found in Sections 2002, 3001, 3002, 3003, 3004, 3005, 3007 and 3010 of RCRA, 42 U.S.C. §§ 6912, 6921, 6922, 6923, 6924, 6925, 6927, and 6930, to develop and promulgate specific requirements in order to implement the waste management program. Pursuant to these authorities, EPA promulgated the waste management regulations found at 40 C.F.R. Part 239 through Part 282.

7. Section 3001 of RCRA, 42 U.S.C. § 6921, requires the Administrator to develop and promulgate criteria for identifying the characteristics of hazardous waste, and for listing hazardous waste, which should be subject to the provisions of this subchapter, taking into account toxicity, persistence, and degradability in nature, potential for accumulation in tissue, and other related factors such as flammability, corrosiveness, and other hazardous characteristics.

8. Section 3002 of RCRA, 42 U.S.C. § 6922, requires the Administrator to promulgate regulations establishing such standards applicable to generators of hazardous waste identified or listed under this subchapter, as may be necessary to protect human health and the environment.

9. Section 3005 of RCRA, 42 U.S.C. § 6925, requires the Administrator of EPA to promulgate regulations requiring each person owning or operating an existing facility or planning to construct a new facility for the treatment, storage, or disposal of hazardous waste identified or listed under this subchapter to have a permit.

10. Section 1004(15) of RCRA, 7 U.S.C. § 6903(15), defines “person” as an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body and shall include each department, agency, and instrumentality of the United States.

11. The regulation at 40 C.F.R. § 260.10 defines “facility” to include all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste, or for managing hazardous secondary materials prior to reclamation. A facility may consist of several treatment, storage or disposal operational units (e.g. one or more landfills, surface impoundments, or combinations of them).

12. The regulation at 40 C.F.R. § 260.10 defines “storage” as the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.

13. The regulation at 40 C.F.R. § 260.10 defines “disposal” as the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

14. “Solid waste” is defined at 40 C.F.R § 261.2.

15. “Hazardous waste” is defined at 40 C.F.R. § 261.3.

16. The regulation at 40 C.F.R. § 260.10 defines “generator” as any person, by site, whose act or process produces hazardous waste identified or listed in part 261 of this chapter or whose act first causes a hazardous waste to become subject to regulation.

17. The regulation at 40 C.F.R. § 260.10 defines “large quantity generator” as a generator who generates greater than or equal to 1,000 kilograms (2,200 pounds) of non-acute hazardous waste or greater than 1 kilogram (2.2 pounds) of acute hazardous waste listed in 40 C.F.R. §§ 261.31 or 261.33(e).

18. The State of Kansas has been granted authorization to administer and enforce a hazardous waste program pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, and the State of Kansas has adopted by reference the federal regulations cited herein at pertinent parts of Title 28, Article 31 of the Kansas Administrative Regulations (hereinafter “K.A.R.”). Section 3008 of RCRA, 42 U.S.C. § 6928, authorizes EPA to enforce the provisions of the authorized state program and the regulations promulgated thereunder. When EPA determines that any person has violated or is in violation of any RCRA requirement, EPA may issue an order assessing a civil penalty for any past or current violation and/or require immediate compliance or compliance within a specified time period pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928. In the case of a violation of a hazardous waste program requirement pursuant to Section 3006 of RCRA, EPA shall give notice to the state in which such violation has occurred or is occurring prior to issuing an order. The State of Kansas has been notified of this action in accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

19. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), authorizes a civil penalty of not more than \$25,000 per day for violations of Subchapter III of RCRA (Hazardous Waste Management). The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, as amended, and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, 28 U.S.C. § 2461, and implementing regulations at 40 C.F.R. Part 19, increased these statutory maximum penalties to \$37,500 for violations that occurred before November 2, 2015, and to \$97,229 for violations that occur after November 2, 2015, and are assessed on or after January 15, 2018. Based upon the facts alleged in this Consent Agreement and Final Order, and upon those factors which Complainant must consider pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C.

§ 6928(a)(3), the Complainant and Respondent agree to the payment of a civil penalty pursuant to Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), and to take the actions required by the Final Order, for the violations of RCRA alleged in this Consent Agreement and Final Order.

General Factual Background

20. Respondent is a corporation and authorized to conduct business within the State of Kansas. Respondent is a “person” as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

21. Respondent owns and operates a facility located at 1700 Kansas Avenue in Kansas City, Kansas (“facility”). Respondent produces and packages sodium silicate, silica catalysts, and zeolites. Respondent’s facility employs approximately 150 people.

22. On or about January 1, 1991, Respondent notified EPA, pursuant to Section 3010 of RCRA, 42 U.S.C. § 6930, and the Kansas Department of Health and Environment (“KDHE”), pursuant to K.A.R. 28-31-260a(a)(9) that it is a Large Quantity Generator (LQG) of hazardous waste. Pursuant to K.A.R. 28-31-260a(a)(9), large quantity generators generate 1,000 kilograms (2,200 pounds) or more of hazardous waste in any calendar month, or generate or accumulate one (1) kilogram or more of acutely hazardous waste.

23. On or about February 22-23, 2017, EPA inspectors conducted a RCRA Compliance Evaluation Inspection (“inspection”) of the hazardous waste management practices at Respondent’s facility. Based on a review of the inspection report and the information provided during the inspection by facility personnel, it was determined that Respondent was operating, at the time of the inspection, as a LQG of hazardous waste, a used oil generator, and a Small Quantity Generator of universal waste.

24. At the time of the inspection, the following wastes, among others, were present. These are solid and hazardous wastes as defined at 40 C.F.R. § 261.2 and 261.3:

- (a) Various hazardous wastes, carrying waste codes D001/F003, with an organic concentration of more than 10% according to facility process knowledge (based upon ignitability) stored outside in a large horizontal steel tank (“T-310”);
- (b) Various hazardous wastes, carrying waste codes D001/F003, with an organic concentration of more than 10% according to facility process knowledge (based upon ignitability) stored in a large vertical steel tank (“T-309”);
- (c) Various hazardous wastes, carrying waste codes D001/D002/D038, with more than 500 ppm volatile organic concentration according to facility process knowledge (based upon ignitability) stored in a large vertical steel tank (“T-2042”); and

- (d) Various hazardous wastes, carrying waste codes D001/D002/D038, with more than 500 ppm volatile organic concentration according to facility process knowledge (based upon ignitability) stored in two steel tanks (“T-8042” and “T-8442”).
25. At the time of the inspection, Respondent did not have a permit or interim status.
26. Respondent has been assigned the following EPA ID Number: KSD000203711.

Violations

27. Complainant hereby states and alleges that Respondent has violated RCRA and the federal regulations promulgated thereunder, as follows:

Count 1

Operating as a Treatment, Storage or Disposal Facility Without a RCRA Permit or RCRA Interim Status

28. Complainant hereby incorporates the allegations contained above, as if fully set forth herein.

29. Section 3005 of RCRA, 42 U.S.C. § 6925, Kansas Statute Annotated 65-3431 and the regulations at 40 C.F.R. Part 270 and K.A.R. 28-31-270 require each person owning or operating a facility for the treatment, storage, or disposal of hazardous wastes identified or listed under Subchapter C of RCRA to have a permit or interim status for such activities.

Generator Requirements

30. The regulations at 40 C.F.R. § 262.34(a), incorporated by K.A.R. 28-31-262(a), state that an LQG may accumulate hazardous waste on-site for ninety (90) days or less without a permit or without interim status, provided the conditions listed in 40 C.F.R. § 262.34(a)(1)-(4) are met. If a generator fails to comply with any of these conditions, the generator is not allowed to accumulate hazardous waste at its facility for any length of time without a permit. Respondent failed to comply with the following conditions:

Failure to conduct monthly monitoring on pumps in light service for leaks per Reference Method 21

31. The regulations at 40 C.F.R. § 262.34(a)(1)(ii), referencing 40 C.F.R. § 265.1052(a)(1), incorporated by K.A.R. 28-31-262(a) and K.A.R. 28-31-265(a), require that a generator conduct monthly monitoring on pumps in light service for leaks per Reference Method 21.

32. At the time of the inspection, Respondent failed to follow Reference Method 21 in its monitoring on pumps in light service on hazardous waste tanks T-309, T-310, T-2042, T-8042, and T-8442 for leaks.

33. Respondent's failures to conduct monthly monitoring on pumps in light service on hazardous waste tanks T-309, T-310, T-2042, T-8042, and T-8442 for leaks, per Reference Method 21, are violations of 40 C.F.R. § 262.34(a)(1)(ii), referencing 40 C.F.R. § 265.1052(a)(1), incorporated by K.A.R. 28-31-262(a) and K.A.R. 28-31-265(a).

Failure to conduct weekly visual inspections on pumps in light service for liquids dripping from pump seals

34. The regulations at 40 C.F.R. § 262.34(a)(1)(ii), referencing 40 C.F.R. § 265.1052(a)(2), incorporated by K.A.R. 28-31-262(a) and K.A.R. 28-31-265(a), require that a generator conduct weekly visual inspections on pumps in light service for liquids dripping from pump seals.

35. At the time of the inspection, Respondent had failed to conduct weekly visual inspections on pumps in light service on hazardous waste tanks T-309, T-310, T-2042, T-8042, and T-8442 for liquids dripping from pump seals.

36. Respondent's failures to conduct weekly visual inspections on pumps in light service on hazardous waste tanks T-309, T-310, T-2042, T-8042, and T-8442 for liquids dripping from pump seals are violations of 40 C.F.R. § 262.34(a)(1)(ii), referencing 40 C.F.R. § 265.1052(a)(2), incorporated by K.A.R. 28-31-262(a) and K.A.R. 28-31-265(a).

Failure to conduct monthly monitoring on valves in light service for leaks per Reference Method 21

37. The regulations at 40 C.F.R. § 262.34(a)(1)(ii), referencing 40 C.F.R. § 265.1057(a), incorporated by K.A.R. 28-31-262(a) and K.A.R. 28-31-265(a), require that a generator conduct monthly monitoring on valves in light service for leaks per Reference Method 21.

38. At the time of the inspection, Respondent failed to follow Reference Method 21 in its monitoring on valves in light service on hazardous waste tanks T-309, T-310, T-2042, T-8042, and T-8442 for leaks.

39. Respondent's failures to conduct monthly monitoring on valves in light service for leaks on hazardous waste tanks T-309, T-310, T-2042, T-8042, and T-8442 per Reference Method 21 are violations of 40 C.F.R. § 262.34(a)(1)(ii), incorporated by K.A.R. 28-31-262(a) and K.A.R. 28-31-265(a).

Failure to conduct leak detection monitoring per Reference Method 21

40. The regulations at 40 C.F.R. § 262.34(a)(1)(ii), referencing 40 C.F.R. § 265.1063(b), incorporated by K.A.R. 28-31-262(a) and K.A.R. 28-31-265(a), require that a generator conduct leak detection monitoring per Reference Method 21.

41. At the time of the inspection, Respondent failed to follow Reference Method 21 in conducting leak detection monitoring on hazardous waste tanks T-309, T-310, T-2042, T-8042, and T-8442.

42. Respondent's failures to conduct leak detection monitoring on hazardous waste tanks T-309, T-310, T-2042, T-8042, and T-8442 per Reference Method 21 are violations of 40 C.F.R. § 262.34(a)(1)(ii), referencing 40 C.F.R. § 265.1063(b), incorporated by K.A.R. 28-31-262(a) and K.A.R. 28-31-265(a).

Failure to mark hazardous waste accumulation tank with the accumulation start date

43. The regulations at 40 C.F.R. § 262.34(a)(2), incorporated by K.A.R. 28-31-262(a), require that a generator mark hazardous accumulation tanks with the accumulation start date.

44. At the time of the inspection, Respondent had failed to mark hazardous accumulation tank T-310 with the accumulation start date.

45. Respondent's failure to mark hazardous accumulation tank T-310 with the accumulation start date is a violation of 40 C.F.R. § 262.34(a)(2), incorporated by K.A.R. 28-31-262(a).

Failure to label hazardous waste accumulation tank with the words "hazardous waste"

46. The regulations at 40 C.F.R. § 262.34(a)(3), incorporated by K.A.R. 28-31-262(a), require that a generator label hazardous waste accumulation tanks with the words "hazardous waste."

47. At the time of the inspection, Respondent had failed to label hazardous waste accumulation tank T-310 with the words "hazardous waste."

48. Respondent's failure to label hazardous waste accumulation tank T-310 with the words "hazardous waste" is a violation of 40 C.F.R. § 262.34(a)(3), incorporated by K.A.R. 28-31-262(a).

Failure to record required information in the facility operating record for each piece of equipment to which Subpart BB of Part 265 applies

49. The regulations at 40 C.F.R. § 262.34(a)(1)(ii), referencing 40 C.F.R. § 265.1064(b)(1), incorporated by K.A.R. 28-31-262(a) and K.A.R. 28-31-265(a), require that a generator record the following information for each piece of equipment to which subpart BB of part 265 applies: (i) Equipment identification number and hazardous waste management unit identification; (ii) Approximate locations within the facility; (iii) Type of equipment; (iv) Percent-by-weight total organics in the hazardous waste stream at the equipment; (v) Hazardous waste state at the equipment; and (vi) Method of compliance with the standard.

50. At the time of the inspection, Respondent had failed to keep the aforementioned records for each piece of equipment to which Subpart BB of Part 265 applies.

51. Respondent's failures to keep the aforementioned records for each piece of equipment to which subpart BB of part 265 applies are violations of 40 C.F.R. § 262.34(a)(1)(ii), referencing 40 C.F.R. § 265.1064(b)(1), incorporated by K.A.R. 28-31-262(a) and K.A.R. 28-31-265(a).

Failure to conduct daily hazardous waste accumulation tank inspections

52. The regulations at 40 C.F.R. § 262.34(a)(1)(ii), referencing 40 C.F.R. § 265.195(b), incorporated by K.A.R. 28-31-262(a) and K.A.R. 28-31-265(a), require that a generator conduct daily hazardous waste accumulation tank inspections.

53. At the time of the inspection, Respondent had failed to conduct daily inspections of hazardous waste accumulation tank T-310.

54. Respondent's failures to conduct daily inspections of hazardous waste accumulation tank T-310 are violations of 40 C.F.R. § 262.34(a)(1)(ii), referencing 40 C.F.R. § 265.195(b), incorporated by K.A.R. 28-31-262(a) and K.A.R. 28-31-265(a).

55. Because Respondent failed to comply with the generator requirements as set forth above, Respondent was not authorized to accumulate hazardous waste at its facility for any length of time, and therefore was operating a hazardous waste storage facility without a permit, or interim status, in violation of Section 3005 of RCRA, 42 U.S.C. § 6925 and Kansas Statute Annotated 65-3431.

CONSENT AGREEMENT

56. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:

- (a) admits the jurisdictional allegations set forth herein;
- (b) neither admits nor denies the specific factual allegations stated herein;
- (c) consents to the assessment of a civil penalty, as stated herein;
- (d) consents to the issuance of any specified compliance or corrective action order;
- (e) consents to any conditions specified herein;
- (f) consents to any stated Permit Action;
- (g) waives any right to contest the allegations set forth herein; and

- (h) waives its rights to appeal the Final Order accompanying this Consent Agreement.

57. Respondent consents to the issuance of this Consent Agreement and Final Order and consents for the purposes of settlement to the payment of the civil penalty specified herein and performance of the compliance actions described below.

58. Respondent and EPA agree to the terms of this Consent Agreement and Final Order and Respondent agrees to comply with the terms specified herein.

59. Respondent and EPA agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorneys' fees.

Penalty Payment

60. Respondent agrees that, in settlement of the claims alleged herein, Respondent shall pay a civil penalty of Eighty-Three Thousand Dollars (\$83,000).

61. 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>.

62. A copy of the check or other information confirming payment shall simultaneously be sent to the following:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219; and

Britt Bieri, Attorney
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219.

63. Respondent understands that its failure to timely pay any portion of the civil

penalty may result in the commencement of a civil action in Federal District Court to recover the full remaining balance, along with penalties and accumulated interest. In such case, interest shall begin to accrue on a civil or stipulated penalty from the date of delinquency until such civil or stipulated penalty and any accrued interest are paid in full. 31 C.F.R. § 901.9. Interest will be assessed at a rate of the United States Treasury Tax and loan rates in accordance with 31 U.S.C. § 3717. Additionally, a charge will be assessed to cover the costs of debt collection including processing and handling costs, and a non-payment penalty charge of six (6) percent per year compounded annually will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. 31 U.S.C. § 3717(e)(2).

Compliance Actions

64. Respondent shall take the following actions within the time periods specified, according to the terms and conditions specified below.

65. Within thirty (30) days of the Effective Date of this Consent Agreement and Final Order, Respondent shall provide the EPA with a facility-wide document that describes:

- (a) the facility-wide 40 C.F.R. Part 265 Subpart BB (“Subpart BB”) Equipment Program (including, but not limited to, applicability of RCRA 40 C.F.R. Part 265 Subpart BB regulations to specific equipment at the facility; list of all equipment subject to BB; leak definitions; and monitoring frequencies);
- (b) a tracking program that ensures that new pieces of equipment added to the facility for any reason are integrated into the Subpart BB Equipment Program and that pieces of equipment that are taken out of service are removed from the Subpart BB Equipment Program;
- (c) the roles and responsibilities of all employee and contractor personnel assigned to 40 C.F.R. Part 265 Subpart BB functions at the facility; and
- (d) details as to how the facility plans to implement its 40 C.F.R. Part 265 Subpart BB Equipment Program.

66. Within sixty (60) days of the Effective Date of this Consent Agreement and Final Order, Respondent shall provide training on LDAR and Subpart BB to employees assigned to Subpart BB functions.

67. Respondent shall submit a total of four (4) Quarterly Compliance Reports to EPA which include Respondent’s Subpart BB compliance inspection reports or otherwise document how Respondent is complying with Subpart BB. The first submission is due within ninety (90) days of the Effective Date of this Consent Agreement and Final Order and the subsequent three (3) submissions shall be submitted within ninety (90) days of the previous submission.

68. Respondent shall submit all documentation generated to comply with the

requirements as set forth in the immediately preceding paragraph to the following address:

Mike Martin, AWMD/WEMM
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219.

Effect of Settlement and Reservation of Rights

69. Full payment of the penalty proposed in this Consent Agreement shall only resolve Respondent's liability for federal civil penalties for the violations alleged herein. Complainant reserves the right to take any enforcement action with respect to any other violations of RCRA or any other applicable law.

70. The effect of settlement described in the immediately preceding paragraph is conditioned upon the accuracy of Respondent's representations to the EPA, as memorialized in the paragraph directly below.

71. Respondent certifies by the signing of this Consent Agreement and Final Order that to the best of its knowledge, 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.

72. Full payment of the penalty proposed in this Consent Agreement shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Consent Agreement and Final Order does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of RCRA and regulations promulgated thereunder.

73. Notwithstanding any other provision of this Consent Agreement and Final Order, EPA reserves the right to enforce the terms and conditions of this Consent Agreement and Final Order by initiating a judicial or administrative action under Section 3008 of RCRA, 42 U.S.C. § 6928, or to seek any other remedy allowed by law.

74. Except as expressly provided herein, nothing in this Consent Agreement and Final Order shall constitute or be construed as a release from any claim (civil or criminal), cause of action, or demand in law or equity by or against any person, firm, partnership, entity, or corporation for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from Respondent's facility.

75. Notwithstanding any other provisions of the Consent Agreement and Final Order, an enforcement action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should EPA find that the handling, storage, treatment, transportation, or disposal of solid waste or hazardous waste at Respondent's facility may present an imminent and

substantial endangerment to human health and the environment.

76. Nothing contained in the Final Order portion of this Consent Agreement and Final Order shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, state, and local environmental statutes and regulations and applicable permits.

General Provisions

77. By signing this Consent Agreement, the undersigned representative of Respondent certifies that he or she is fully authorized to execute and enter into the terms and conditions of this Consent Agreement and has the legal capacity to bind the party he or she represents to this Consent Agreement.

78. This Consent Agreement shall not dispose of the proceeding without a final order from the Regional Judicial Officer or Regional Administrator ratifying the terms of this Consent Agreement. This Consent Agreement and Final Order shall be effective upon the filing of the Final Order by the Regional Hearing Clerk for EPA, Region 7. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

79. The penalty specified herein shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal, State and local taxes.

80. This Consent Agreement and Final Order shall apply to and be binding upon Respondent and Respondent's agents, successors and/or assigns. Respondent shall ensure that all contractors, employees, consultants, firms, or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this Consent Agreement and Final Order.

81. The headings in this Consent Agreement and Final Order are for convenience of reference only and shall not affect interpretation of this Consent Agreement and Final Order.

82. The provisions of this Consent Agreement and Final Order shall be deemed satisfied upon a written determination by Complainant that Respondent has fully implemented the actions required in the Final Order.

COMPLAINANT:

U.S. Environmental Protection Agency

9/18/2018

Date

for John N. Callan
John Smith, Acting Branch Chief
Waste Enforcement and Materials Management Branch
Air and Waste Management Division

9/18/18

Date

Britt Bieri
Britt Bieri
Office of Regional Counsel

RESPONDENT:

PQ Corporation

13 September 2018
Date

By: 
Signature

JOSEPH S. KOSCIUSKO
Printed Name

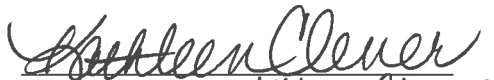
NICE PRESIDENT and GENERAL COUNSEL
Title

FINAL ORDER

Pursuant to 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 Consent 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 Consent Agreement. In accordance with 40 C.F.R. § 22.31(b), the effective date of the foregoing Consent 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~~ Kathleen Clever
Regional Judicial Officer

9-20-18
Date

CERTIFICATE OF SERVICE

I certify 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 email to Complainant:

Britt Bieri

Copy via first class mail to Respondent:

Tony Larson, Plant Manager
PQ Corporation
1700 Kansas Avenue
Kansas City, Kansas 66105

Copy via email to Respondent's attorney:

Colleen Grace Donofrio
Babst, Calland, Clements & Zomnir, P.C.
cdonofrio@babstcalland.com

Copy via email to the State of Kansas:

William L. Bider, Director
Bureau of Waste Management
Kansas Department of Health and Environment

Ken Powell
Compliance and Enforcement, Waste Reduction, and Assistance Section
Kansas Department of Health and Environment

Dated this 21 day of September, 2018.



Signed