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**U. S. ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BOULEVARD
LENEXA, KANSAS 66219
BEFORE THE ADMINISTRATOR**

In the Matter of)
)
Precision, Inc.) **Docket No. RCRA-07-2017-0452**
)
Respondent.)

CONSENT AGREEMENT AND FINAL ORDER

PRELIMINARY STATEMENT

The U.S. Environmental Protection Agency, Region 7 (EPA or Complainant), and Precision, Inc. (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, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2).

JURISDICTION

1. This proceeding is an administrative action for the assessment of civil penalties instituted pursuant to Sections 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).

2. This Consent Agreement and Final Order serves as notice that EPA has reason to believe that Respondent has violated Section 3005 of RCRA, 42 U.S.C. § 6925.

PARTIES

3. Complainant, by delegation from the Administrator of EPA, the Regional Administrator, EPA, Region 7, and the Director of the Air Waste and Management Division is the Chief of the Waste Enforcement and Materials Management Branch.

4. Respondent is a corporation in good standing under the laws of the state of Iowa and doing business in the state of Iowa.

STATUTORY AND REGULATORY BACKGROUND

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. Pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), whenever on the basis of any information the EPA determines that any person has violated or is in violation of any requirement of RCRA, the 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.

8. Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), 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.

9. 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.

10. 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).

11. The regulation at 40 C.F.R. § 260.10 defines “treatment” as any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste, or so as to recover energy or material resources from the waste, or so as to render such waste non-hazardous, or less hazardous; safer to transport, store, or dispose of; or amendable for recovery, amendable for storage, or reduced in volume.

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. The regulation at 40 C.F.R. § 260.10 defines “hazardous waste” as a hazardous waste as defined in 40 C.F.R. § 261.3.

15. 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.

16. The regulation at 40 C.F.R. § 260.10 defines “small quantity generator” as a generator who generates less than 1,000 kilograms of hazardous waste in a calendar month.

17. 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 2008 and the Federal Civil Penalties Inflation Adjustment Improvements Act of 2015, and implementing regulations at 40 C.F.R. Part 19, increased these statutory maximum penalties to \$37,500 for violations that occurred from January 12, 2009, through November 2, 2015, and to \$95,284 for violations that occur after November 2, 2015.

GENERAL FACTUAL ALLEGATIONS

18. Respondent is, and at all times referred to herein was, a corporation authorized to conduct business within the State of Iowa.

19. Respondent is, and at all times referred to herein was, a “person,” as defined by Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

20. On or about March 23, 2016, an EPA inspector conducted a RCRA Compliance Evaluation Inspection (the inspection), under the authority of Section 3007(a) of RCRA, 42 U.S.C. § 6927, at Respondent’s facility located at: 700 S. Walnut, Lenox, Iowa 50851 (the Facility), to determine Respondent’s compliance with RCRA and the implementing regulations. A copy of the inspection report was mailed to Respondent on May 4, 2016.

21. At the time of the inspection, and at all times relevant to this Consent Agreement and Final Order, the process at the Facility resulted in the production and storage of the following hazardous wastes:

- (i) Spent methyl amyl ketone (MAK) solvent/waste paint (D001, F005);
- (ii) Spent MAK solvent/waste paint with condensate (D001, F005);

- (iii) Still bottoms (F003, F005); and
- (iv) Spent aerosol can puncturing waste (D001).

22. At the time of the inspection, and at all times relevant to this Consent Agreement and Final Order, the Facility was engaged in the storage of hazardous waste, as defined by 40 C.F.R. § 260.10.

23. At the time of the inspection, and at all times relevant to this Consent Agreement and Final Order, Respondent was a generator of hazardous waste, as defined by 40 C.F.R. § 260.10.

24. At the time of the inspection, and at all times relevant to this Consent Agreement and Final Order, Respondent was generating more than 100 kilograms of hazardous waste and less than 1,000 kilograms of hazardous waste per calendar month.

25. At the time of the inspection, and at all times relevant to this Consent Agreement and Final Order, Respondent was operating as a small quantity generator of hazardous waste, as defined by 40 C.F.R. § 260.10, and is registered with EPA as a conditionally exempt small quantity generator of hazardous waste under EPA ID IAD984568477.

26. As a result of the EPA inspection and additional information obtained by EPA, Complainant has determined that violations of RCRA and the implementing regulations have occurred.

ALLEGATIONS OF VIOLATIONS

27. The Complainant hereby states and alleges that Respondent has violated RCRA and 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. The facts stated in Paragraphs 18 through 26 above are herein incorporated.

29. Section 3005 of RCRA, 42 U.S.C. § 6925, and the regulations at 40 C.F.R. § 270.1(b) require each person owning or operating a facility for the treatment, storage, or disposal of a hazardous waste identified or listed under Subchapter C of RCRA to have a permit for such activities.

30. At the time of the inspection, Respondent did not have a permit or interim status for the facility.

Generator Requirements

Satellite Accumulation Requirements

31. The regulation at 40 C.F.R. § 262.34(c)(1) allows a generator to accumulate as much as fifty-five (55) gallons of hazardous waste or one (1) quart of acutely hazardous waste listed in 40 C.F.R. § 261.31 or 40 C.F.R. § 261.33(e) in containers at or near any point of generation where wastes initially accumulates, which is under the control of the operator of the process generating the waste (satellite accumulation area), without a permit or interim status and without complying with paragraph (a) or (d) of this section provided the conditions listed in 40 C.F.R. § 262.34(c)(1)(i) and (ii) are met. At the time of the inspection, Respondent failed to comply with the following satellite accumulation requirements:

Failure to close satellite accumulation containers

32. The regulation at 40 C.F.R. § 262.34(c)(1)(i), referencing 40 C.F.R. § 265.173(a), requires that a container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.

33. At the time of the inspection, the following satellite accumulation containers containing hazardous waste were not closed:

- (i) Twelve (12) 5-gallon containers of spent MAK solvent/waste paint (D001, F005), located just south of the cleaning station;
- (ii) One (1) 5-gallon container of spent MAK solvent/waste paint with condensate (D001, F005), located in the frame paint booth area;
- (iii) One (1) 2.5-gallon container of spent MAK solvent/waste paint (D001, F005), located in the frame paint booth area;
- (iv) Four (4) 5-gallon containers of spent MAK solvent/waste paint (D001, F005), located near the distillation unit;
- (v) One (1) 55-gallon container spent aerosol can puncturing waste (D0001), located north of the burn-off oven; and
- (vi) Two (2) 5-gallon containers of spent MAK solvent/waste paint (D001, F005), located near the touch-up paint booth.

Failure to close satellite accumulation containers

34. The regulation at 40 C.F.R. § 262.34(c)(1)(ii) requires generators to mark containers with either the words "Hazardous Waste" or with other words that identify the contents of the containers.

35. At the time of the inspection, the following satellite accumulation containers containing hazardous waste were not labeled with the words "Hazardous Waste" or with other words identifying the contents of the container:

- (i) Twelve (12) 5-gallon containers of spent MAK solvent/waste paint (D001,

- F005), located just south of the cleaning station;
- (ii) One (1) 5-gallon container of spent MAK solvent/waste paint with condensate (D001, F005), located in the frame paint booth area;
- (iii) One (1) 2.5-gallon container of spent MAK solvent/waste paint (D001, F005), located in the frame paint booth area;
- (iv) Four (4) 5-gallon containers of spent MAK solvent/waste paint (D001, F005), located near the distillation unit;
- (v) One (1) 55-gallon container spent aerosol can puncturing waste (D0001), located north of the burn-off oven; and
- (vi) Two (2) 5-gallon containers of spent MAK solvent/waste paint (D001, F005), located near the touch-up paint booth.

Small Quantity Generator Accumulation Requirements

36. The regulation at 40 C.F.R. § 262.34(d) states that a generator may accumulate hazardous waste on-site for one hundred and eighty days (180) days or less without a permit or without interim status, provided the conditions listed in 40 C.F.R. § 262.34(d)(1)-(5) are met. If a generator fails to comply with any of these conditions, the generator is not allowed to store hazardous waste at its facility for any length of time. Respondent failed to comply with the following conditions:

Failure to date hazardous waste accumulation containers

37. The regulation at 40 C.F.R. § 262.34(d)(4), which incorporates 40 C.F.R. § 262.34(a)(2) by reference, requires generators to clearly mark the date upon which each period of accumulation began on each container.

38. At the time of the inspection, one (1) container of WPRM still bottoms (F003, F005) located in the hazardous waste central accumulation area (HWCAA) was not marked with the date upon which the accumulation began.

Failure to conduct weekly hazardous waste inspections

39. The regulation at 40 C.F.R. § 262.34(d)(2) requires that while being accumulated on-site, the hazardous waste must be placed in containers and the generator must comply with the applicable requirements of Subpart I of 40 C.F.R. Part 265.

40. Pursuant to 40 C.F.R. § 265.174, as found in 40 C.F.R. Part 265, Subpart I, the owner or operator must inspect, at least weekly, areas where containers of hazardous waste are accumulated, looking for leaking containers and deteriorating containers caused by corrosion or other factors.

41. At the time of the inspection, Respondent failed to inspect the HWCAA weekly.

Failure to post emergency information

42. The regulation at 40 C.F.R. § 262.34(d)(5)(ii)(B) requires the generator to post the location of the fire extinguisher and spill control material, and, if present, fire alarm, next to the telephone.

43. At the time of the inspection, Respondent failed to post the location of the fire extinguisher and spill control material next to the telephone.

44. Because Respondent failed to comply with the generator requirements as set forth in Paragraphs 28 through 41 above, Respondent was not authorized to store hazardous waste at the Facility 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.

Count 2

Failure to Properly Manifest Hazardous Waste Shipments

45. The facts stated in Paragraphs 18 through 26 above are herein incorporated.

Failure to dispose of waste under a manifest

46. The regulation at 40 C.F.R. § 262.20(a)(1) requires that a generator who transports, or offers for transport a hazardous waste for offsite treatment, storage, or disposal must prepare a manifest according to the instructions included in the appendix to 40 C.F.R. Part 262.

47. At the time of the inspection, documentation was collected that revealed from January 2013 through the date of inspection, Respondent offered for transport twenty (20) shipments of WPRM still bottoms (F003, F005) and WPRM (F005, D001) without preparing a manifest.

48. At the time of the inspection, a hazardous waste manifest dated January 21, 2013, was collected that failed to include the Facility's EPA ID number, as required by the instructions included in the appendix to 40 C.F.R. Part 262.

49. Respondent's failure to transport hazardous waste without preparing a manifest and without preparing a manifest according to the instructions included in the appendix to 40 C.F.R. Part 262 is a violation of 40 C.F.R. § 262.20(a)(1).

Failure to file an exception report

50. The regulation at 40 C.F.R. § 262.42(b) requires a small quantity generator who does not receive a copy of the hazardous waste manifest with the handwritten signature of the owner or operator of the designated facility within sixty (60) days of the date the waste was accepted by the initial transporter must submit a legible copy of the manifest, with some

indication that the generator has not received confirmation of delivery, to the EPA Regional Administrator for the Region in which the generator is located.

51. At the time of the inspection, documentation was reviewed that identified two (2) hazardous waste manifests for which no copy was retained with the handwritten signature of the owner or operator of the designated facility nor was an exception report filed.

52. Respondent's failure to retain a copy of hazardous waste manifest with the handwritten signature of the owner or operator of the designated facility or file an exception report is a violation of 40 C.F.R. § 262.42(b).

Failure to send Land Disposal Restriction (LDR) with the first shipment of hazardous waste

53. The regulation at 40 C.F.R. § 268.7(a)(2) requires generators of hazardous waste to send a one-time written notice (LDR notification) to each treatment or storage facility receiving the waste with the initial shipment of waste, if the waste does not meet the treatment standards or if the generator chooses not to make the determination of whether the waste must be treated, and maintain a copy of the notice.

54. At the time of the inspection, Respondent was unable to produce any LDR notifications and was unaware of the requirements to send and maintain a copy of LDR notifications.

55. Respondent's failure to send and maintain a copy of LDR notifications is a violation of 40 C.F.R. § 268.7(a)(2).

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.

58. 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

59. Respondent agrees that, in settlement of the claims alleged herein, Respondent shall pay a civil penalty of Twenty-Two Thousand Five Hundred Nine Dollars (\$22,509) as set forth below.

60. 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>.

61. 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

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

62. 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(b)(1). 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).

EFFECT OF SETTLEMENT AND RESERVATION OF RIGHTS

63. 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.

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

65. Respondent certifies by the signing of this Consent Agreement that it is presently in compliance with all requirements of RCRA and the implementing regulations.

66. 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.

67. Complainant reserves the right enforce the terms and conditions of this Consent Agreement and Final Order.

GENERAL PROVISIONS

68. 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.

69. 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.

70. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

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

72. 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 with respect to matters included herein comply with the terms of this Consent Agreement and Final Order.

**RESPONDENT
PRECISION, INC.**

Date: 10/27/17


By: Dana Doty
Signature

Dana Doty
Print Name

EHS Manager
Title


COMPLAINANT
U. S. ENVIRONMENTAL PROTECTION AGENCY

Date: 31 Oct 2017



Mary Goetz, Chief
Waste Enforcement and Materials Management Branch
Air and Waste Management Division

Date: 10/31/2017



Clarissa Howley Mills
Office of Regional Counsel

FINAL ORDER

Pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928, 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 Borrromeo
Karina Borrromeo
Regional Judicial Officer

Nov. 6, 2017
Date

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Order was sent this day in the following manner to the addressees:

Copy emailed to Attorney for Complainant:

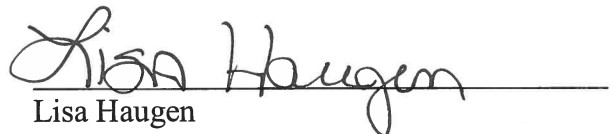
mills.clarissa@epa.gov

Copy emailed to Respondent and copy by First Class Mail to Respondent:

ddoty@ppi-global.com

Dana Doty
Precision, Inc.
700 S. Walnut
Lenox, Iowa 50851

Dated: Nov. 7, 2017



Lisa Haugen
Hearing Clerk, Region 7