

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

FILED

July 15, 2025

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U.S. EPA REGION 7  
HEARING CLERK

In the Matter of:

Borghi USA, Inc.,

Respondent.

Docket No. RCRA-07-2025-0078

**CONSENT AGREEMENT AND FINAL ORDER**

**PRELIMINARY STATEMENT**

The U.S. Environmental Protection Agency (EPA), Region 7 (“Complainant”) and Borghi USA, 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 (“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) 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 in accordance with the Consolidated Rules of Practice.

**Parties**

2. Complainant is the Director of the Enforcement and Compliance Assurance Division, Region 7, as duly delegated by the Administrator of EPA.

3. Respondent is Borghi USA, Inc., an Iowa corporation authorized to operate under the laws of Iowa.

**Statutory and Regulatory Framework**

4. 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.

5. RCRA provides guidelines for a waste management program and provides EPA with the authorities found in Sections 2002, 3002, 3004, and 3005 of RCRA, 42 U.S.C. §§ 6912, 6922, 6924, and 6925 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.

6. Section 2002 of RCRA, 42 U.S.C. § 6912, authorizes the Administrator to prescribe such regulations as are necessary to carry out his functions under RCRA.

7. 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.

8. Section 3004 of RCRA, 42 U.S.C. § 6924, requires the Administrator to promulgate regulations establishing performance standards, applicable to owners and operators of facilities for the treatment, storage, or disposal 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, 42 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 “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.

13. 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.

14. 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.

15. The regulation at C.F.R. § 260.10 defines “incompatible waste” as a hazardous waste which is unsuitable for:

- a. Placement in a particular device or facility because it may cause corrosion or decay of containment materials (e.g., container inner liners or tanks walls); or
- b. Commingling with another waste or material under uncontrolled conditions because the commingling might produce heat or pressure, fire or explosion, violent reaction, toxic dusts, mists, fumes, or gases, or flammable fumes or gases.

16. The regulation at C.F.R. § 260.10 defines “contained” as held in a unit (including a land-based unit as defined in this subpart) that meets the following criteria:

- a. The unit is in good condition, with no leaks or other continuing or intermittent unpermitted releases of the hazardous secondary materials to the environment, and is designed, as appropriate for the hazardous secondary materials, to prevent releases of hazardous secondary materials to the environment. Unpermitted releases are releases that are not covered by a permit (such as a permit to discharge to water or air) and may include, but are not limited to, releases through surface transport by precipitation runoff, releases to soil and groundwater, wind-blown dust, fugitive air emissions, and catastrophic unit failures;
- b. The unit is properly labeled or otherwise has a system (such as a log) to immediately identify the hazardous secondary materials in the unit; and
- c. The unit holds hazardous secondary materials that are compatible with other hazardous secondary materials placed in the unit and is compatible with the materials used to construct the unit and addresses any potential risks of fires or explosions.
- d. Hazardous secondary materials in units that meet the applicable requirements of 40 C.F.R. parts 264 or 265 are presumptively contained.

17. The regulation at C.F.R. § 260.10 defines “discharge or hazardous waste discharge” as the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, or dumping of hazardous waste into or on any land or water.

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

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

20. 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.

21. The regulation at 40 C.F.R. § 260.10 defines “very small quantity generator” as a generator who generates less than or equal to the following amounts in a calendar month: (1) 100 kilograms (220 lbs) of non-acute hazardous waste; and (2) 1 kilogram (2.2 lbs) of acute hazardous waste listed in § 261.31 or § 261.33(e) of this chapter; and (3) 100 kilograms (220 lbs) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in § 261.31 or § 261.33(e) of this chapter.

22. 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).

23. The regulation at 40 C.F.R. § 260.10 defines “acute hazardous waste” as hazardous wastes that meet the listing criteria in § 261.11(a)(2) and therefore are either listed in § 261.31 of this chapter with the assigned hazard code of (H) or are listed in § 261.33(e) of this chapter.

24. The regulation at 40 C.F.R. § 260.10 defines “nonacute hazardous waste” as all hazardous wastes that are not acute hazardous waste, as defined in this section.

25. 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.

26. Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), authorizes a civil penalty of not more than \$25,000 per day for each violation. 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 \$124,426 for violations that occur after November 2, 2015, and for which penalties are assessed on or after January 8, 2025. In assessing any such penalty, EPA must take into account the seriousness of the violation and any good faith efforts to

comply with applicable requirements. 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), Complainant and Respondent agree to the payment of a civil penalty pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), 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**

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

28. Respondent owns and operates a facility is located at 402 W. Division Street, West Burlington, Iowa 52655 (“facility”). Respondent processes steel pipes to produce rigid and flexible pipes for sectors such as automotive, agriculture, and industrial, including utilizing a zinc electroplating process. Respondent employs approximately 165 people.

29. On or about October 15, 2019, Respondent notified EPA of its regulated waste activity as a Very Small Quantity Generator (VSQG) of D002 characteristic hazardous waste and obtained the following RCRA ID number: IAR000525451.

30. On or about March 29, 2023, Respondent notified EPA of its change in generator status to a Large Quantity Generator (LQG) of D001, D002, D007, D008, and D010 characteristic hazardous waste.

31. On April 12, 2022, Respondent experienced a spill event when a pipe filled with hydrochloric acid ruptured spilling approximately 2,000 gallons of the hydrochloric acid from the pipe inside the facility.

32. Respondent reported the hazardous waste spill to the Iowa Department of Natural Resources (IDNR) on April 14, 2022.

33. The West Burlington fire and police departments responded to the spill on April 14, 2022, due to concerns about the health and safety of facility employees. The fire department evacuated employees and closed the facility due to the harmful fumes, lack of proper personal protection equipment for the employees, and the potential explosivity of hydrochloric acid.

34. The hydrochloric acid flowed out of the facility, contaminating soil around the facility.

35. The event resulted in the following wastes being transported off-site and disposed of by Clean Harbors Environmental Services, Inc.:

- a. UN 3265 waste corrosive liquid (hydrochloric acid solution), seven (7) temporary portable (TP) containers containing approximately 1,925

gallons of D002, D007, and D008 characteristic hazardous waste;

- b. UN 3266 corrosive liquid (sodium hydroxide), two (2) TP containers containing approximately 550 gallons of non-RCRA hazardous sodium hydroxide; and
- c. UN 3263 corrosive solid base (caustic soda), forty (40) drums containing 8,000 pounds of D007 and D008 characteristic hazardous waste.

36. On or about October 19, 2022, EPA inspectors conducted a RCRA Compliance Evaluation Inspection (hereinafter “the 2022 Inspection”) of the hazardous waste management practices at Respondent’s facility. The facility was inspected as a VSQG of hazardous waste, a Small Quantity Handler of universal waste, and used oil generator.

37. At the time of the 2022 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. Commercial products containing acetone and toluene used in the maintenance area;
- b. Soiled cloth shop rags used with commercial products in the maintenance area;
- c. Waste vats of process rinse waters in the plating area;
- d. A twenty (20) cubic-yard roll-off container filled with scrap metal located outside the facility;
- e. Approximately fifty-two (52), 275-gallon intermediate bulk containers (totes) containing various volumes of unknown liquids stored in a lot located on the northwest end of the facility; and
- f. A covered roll-off container of wastewater filter press sludge.

38. At the time of the 2022 Inspection, absorbent pads used to absorb leaking hydraulic fluid in the plating area were identified. These absorbent pads are “used oil containers” per 40 C.F.R. Part 279.

39. At the time of the 2022 Inspection, one (1) closed, labeled cardboard box of twelve (12) spent fluorescent lamps stored in the maintenance area were identified. These are “universal waste containers” per 40 C.F.R. Part 273.

40. EPA sent Respondent an Information Request Letter (IRL) on February 15, 2023, pursuant to Section 3007 of RCRA, 42 U.S.C. § 6927. The IRL sought information from Respondent regarding the waste determinations for the solid waste streams identified during the 2022 Inspection.

41. Respondent provided responses to the IRL on March 15, 2023, and April 3, 2023. Respondent also provided additional information to EPA on June 2, 2023.

42. On September 12, 2023, a Consent Agreement and Final Order (hereinafter “the 2023 Order”) was entered in Docket No. RCRA 07-2023-0121 and included one count of failure to conduct hazardous waste determinations. The Order required Respondent to perform specific tasks, including:

- a. Conduct and submit a written complete container inventory;
- b. Conduct and submit a waste generation inventory;
- c. Submit sampling and analysis plans for previously generated solid wastes and wastewater sludge;
- d. Conduct sampling in accordance with the approved sampling and analysis plans;
- e. Submit a hazardous waste inventory report;
- f. Ship hazardous wastes off-site for disposal; and
- g. Submit a waste disposal report.

43. EPA notified Respondent on October 10, 2024, that it had completed all the required work under the 2023 Order.

44. Pursuant to Paragraph 98 of the 2023 Order, EPA inspectors conducted a RCRA Compliance Evaluation Inspection (hereinafter “the 2024 inspection”) of the hazardous waste management practices at Respondent’s facility on August 19 and 22, 2024. The facility was inspected as a LQG of hazardous waste, a Small Quantity Handler of universal waste, and used oil generator.

45. At the time of the 2024 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. Waste corrosive liquids considered D002, D007, D008, and D010 hazardous waste;
- b. Wastewater treatment filter sludge; and
- c. Saw water.

### **Violations**

46. Complainant hereby states and alleges that Respondent has violated RCRA and

the federal regulations promulgated thereunder, as follows.

47. For each count below, Complainant hereby incorporates the allegations contained in the Paragraphs above, as if fully set forth herein.

### **Count 1**

#### **Failure to Determine the Generator Category Each Month Hazardous Waste is Generated**

48. Pursuant to 40 C.F.R. § 262.10(a)(1)(iii)(B) and (b), a person who generates hazardous waste, as defined in 40 C.F.R. §§ 260.10 and 261.20, must use 40 C.F.R. § 262.13 to determine which provisions of 40 C.F.R. Part 262 are applicable to the generator based on the quantity of hazardous waste generated per calendar month.

49. 40 C.F.R. § 262.13 states “a generator must determine its generator category. A generator’s category is based on the amount of hazardous waste generated each month and may change from month to month.”

50. In determining the generator category, a generator who either generates acute hazardous waste or non-acute hazardous waste in a calendar month shall:

- a. Count the total amount of hazardous waste generated in the calendar month;
- b. Subtract from the total any amounts of waste exempt from counting as described in paragraphs (c) and (d) of 40 C.F.R. § 262.13; and
- c. Determine the resulting generator category for the hazardous waste generated using Table 1 of this section.

51. At the time of the 2022 Inspection, it was determined that Respondent had previously generated fifty-two (52), 275-gallon totes containing various volumes of unknown liquids and stored these totes in a lot located on the northwest end of the facility.

52. At the time of the 2022 Inspection, Respondent had not conducted hazardous waste determinations on the liquids stored in any of the 275-gallon totes.

53. After conducting hazardous waste determinations on all outside waste storage containers, including any 275-gallon totes on site, pursuant to Paragraphs 78 through 80 of the 2023 Order, Respondent determined fifty-five (55) totes equaling over 1,000 kg of hazardous waste stored on site at Respondent’s facility contained non-acute hazardous waste streams.

54. Information gathered during the 2022 Inspection determined that Respondent began generating the hazardous waste streams and storing these streams in the totes on site at least 18 months prior to the 2022 Inspection.

55. Table 1 to 40 C.F.R. § 262.13 states that greater than or equal to 1,000 kg of non-acute hazardous waste, and/or greater than or equal to 100 kg of cleanup of acute hazardous



waste, and/or greater than or equal to 1 kg of acute hazardous waste generated in a calendar month results in a generator category determination of an LQG.

56. Respondent did not notify the EPA of its change in generator status from a VSQG to an LQG until March 29, 2023.

57. Respondent failed to determine its generator status each month the totes were stored on site at Respondent's facility.

58. Respondent's failure to determine its generator category each month in which the non-acute hazardous waste was stored on site at its facility pursuant to 40 C.F.R. § 262.13 is a violation of 40 C.F.R. § 262.10(a)(1)(iii)(B) and (b).

## **Count 2**

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

59. Section 3005 of RCRA, 42 U.S.C. § 6925, and the regulations at 40 C.F.R. Part 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.

60. At the time of the 2022 Inspection, Respondent did not have a permit or interim status.

## **Generator Requirements**

61. The regulation at 40 C.F.R. § 262.17(a) states that a large quantity generator may accumulate hazardous waste on-site for no more than ninety (90) days without a permit or interim status, and without complying with the requirements of Parts 124, 264 through 267, and 270, or the notification requirements of section 3010 of RCRA, provided all the conditions for exemption set forth at 40 C.F.R. § 262.17 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. Respondent failed to comply with the following conditions:

### **Accumulation**

62. Pursuant to 40 C.F.R. § 262.17(a), a LQG may accumulate hazardous waste on site for no more than ninety (90) days, unless in compliance with the accumulation time limit extension or F006 accumulation conditions for exemption in 40 C.F.R. §§ 262.17(b) through (e).

63. At the time of the 2022 Inspection, no accumulation extensions or exemptions were in effect.

64. At the time of the 2022 Inspection, the inspector observed approximately 52, 275-gallon IBC totes outside at the facility.

65. At the 2022 Inspection, the inspector asked the facility's plant manager how long the totes had been stored at the facility. The inspector was told that the totes "were accumulated during the pandemic and were on site when [the plant manager] started working at the facility approximately 18 months ago."

66. By storing hazardous waste on-site for greater than ninety (90) days, Respondent was operating as a hazardous waste storage facility and subjected itself to the requirements of 40 C.F.R. Parts 264, 265, and the permit requirements of 40 C.F.R. Part 270.

#### *Management of containers*

67. The regulation at 40 C.F.R. § 262.17(a)(1)(iv)(B) states that a container holding hazardous waste must not be opened, handled, or stored in a manner that may rupture the container or cause it to leak.

68. At the time of the 2022 Inspection, the inspector observed the containers holding hazardous waste were opened, handled, or stored in a manner that may rupture the container or cause it to leak.

69. Furthermore, the Complete Container Inventory submitted by Respondent pursuant to Paragraph 76 of the 2023 Order stated that the contents of three containers had to be removed from the original containers and placed in new containers due to the condition of the containers.

#### *Inspections*

70. The regulation at 40 C.F.R. § 262.17(a)(1)(v) states that the LQG must conduct weekly inspections of its central accumulation areas. The LQG must look for leaking containers and for deterioration of containers caused by corrosion or other factors.

71. At the time of the 2022 Inspection, Respondent did not provide any evidence that it conducted weekly inspections of the central accumulation area to check for leaks or deterioration of the totes.

#### *Labeling and marking of containers*

72. The regulation at 40 C.F.R. § 262.17(a)(5) states that the LQG must mark or label its containers with words,

- a. "Hazardous Waste";
- b. An indication of the hazards of the contents; hazard communication consistent with Department of Transportation requirements; a hazard

statement or pictogram consistent with Occupational Safety and Health Administration Hazard Communication Standard; or a chemical hazard label consistent with the National Fire Protection Association; and

- c. The date upon which each period of accumulation begins clearly visible for inspection on each container.

73. At the time of the 2022 Inspection, none of the totes at the facility were appropriately labeled or marked in any way.

#### *Emergency Procedures*

74. The regulation at 40 C.F.R. § 262.17(a)(6) states that the LQG must comply with the standards in subpart M of this part, Preparedness, Prevention and Emergency Procedures for Large Quantity Generators. The following subpart M standards were not met:

#### *Emergency Procedures: Maintenance and operation of facility*

75. Pursuant to 40 C.F.R. § 262.251, the LQG 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.

76. On April 12, 2022, approximately 2,000 gallons of hydrochloric acid spilled at the facility, resulting in a release of hazardous waste to the soil which threatened human health and the environment.

#### *Emergency Procedures: Required equipment*

77. Pursuant to 40 C.F.R. § 262.252(c), all areas where hazardous waste is generated or accumulated on site must be equipped with portable fire extinguishers, fire control equipment, spill control equipment, and decontamination equipment.

78. At the time of the April 12, 2022, hydrochloric acid spill, appropriate spill control equipment was not present at Respondent's facility.

#### *Emergency Procedures: Required aisle space*

79. Pursuant to 40 C.F.R. § 262.255, the LQG must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.

80. At the time of the 2022 Inspection, the EPA inspector observed insufficient aisle space around approximately 52 totes stored in a lot located on the northwest end of the Facility.

*Emergency Procedures: Arrangements with local authorities*

81. Pursuant to 40 C.F.R. § 262.256(a), the LQG must attempt to make arrangements with the local police department, fire department, other emergency response teams, emergency response contractors, equipment suppliers, and local hospitals, taking into account the types and quantities of hazardous wastes handled at the facility.

82. Pursuant to 40 C.F.R. § 262.256(b), the LQG shall maintain records documenting the arrangements with the local fire department as well as any other organization necessary to respond to an emergency.

83. At the time of the 2022 Inspection, Respondent failed to make arrangements with the local emergency responders.

*Emergency Procedures: Purpose and implementation of contingency plan*

84. Pursuant to 40 C.F.R. § 262.260(a), the LQG must have a contingency plan for the facility and the contingency plan must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water.

85. At the time of the April 12, 2022, hydrochloric acid spill and the 2022 Inspection, Respondent did not have a contingency plan.

*Personnel Training: Program of instruction*

86. Pursuant to 40 C.F.R. § 262.17(a)(7)(i)(A), facility personnel must successfully complete a program of instruction that teaches the personnel to perform their duties in a way that ensures compliance with this part.

87. The program of instruction must be directed by a person trained in hazardous waste management procedures and must include instruction which teaches facility personnel hazardous waste management procedures (including contingency plan implementation) relevant to the positions in which they are employed. 40 C.F.R. § 262.17(a)(7)(i)(B).

88. The program of instruction must be designed to ensure that facility personnel are able to respond effectively to emergencies by familiarizing them with emergency procedures, emergency equipment, and emergency systems. 40 C.F.R. § 262.17(a)(7)(i)(C).

89. Facility personnel must successfully complete the program of instruction within six months after the date of their employment or assignment to the facility, or to a new position at the facility, whichever is later. 40 C.F.R. § 262.17(a)(7)(ii).

90. Facility personnel must take part in an annual review of the initial training required in 40 C.F.R. § 262.17(a)(7)(i).

91. At the time of the 2022 Inspection, none of the Facility personnel were trained in hazardous waste management procedures relevant to their positions.

92. At the time of the 2024 Inspection, Facility personnel had not taken part in an annual review of the initial training for the years 2022, 2023 and 2024, as required by 40 C.F.R. § 262.17(a)(7)(i).

### **CONSENT AGREEMENT**

93. 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.

94. By signing this consent agreement, Respondent waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the final order accompanying the consent agreement.

95. 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.

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

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

98. Respondent consents to receiving an electronic copy of the filed Consent Agreement and Final Order at the following email address:  
*matthew.brakeville@borghiusainc.com*.

### **Penalty Payment**

99. The EPA has considered the seriousness of the violations and any good faith efforts to comply with the applicable requirements pursuant to Section 3008(a)(3), 42 U.S.C. § 6928(a)(3). However, ability to pay is considered a mitigating factor in EPA's RCRA Civil Penalty Policy (June 2003). Respondent has demonstrated that it is unable to pay any penalty in this matter. Because of Respondent's inability to pay the penalty, therefore, Complainant conditionally agrees to resolve the claims alleged herein for \$0.

### **Compliance Actions**

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

101. Respondent shall submit four (4) Quarterly Compliance Reports to EPA. The first submission is due within thirty (30) days of the Effective Date of this Consent Agreement and Final Order. The subsequent three (3) submissions shall be submitted within ninety (90) days of the previous submission. The Quarterly Compliance Report shall include the following:

- a. A narrative description with supporting documentation of Respondent's per month generation rate for the reporting period.
- b. Copies of each manifest or bill of lading prepared for hazardous waste shipped off site for the reporting period, to demonstrate how much hazardous waste was shipped off site during the reporting period.
- c. Documentation of any spills or emergency events that have occurred at the facility during the reporting period. Documentation should include event description; waste generated, if any; procedures taken to resolve issue; and any other relevant documentation.

102. Respondent shall submit all documentation generated to comply with the requirements as set forth in the immediately preceding paragraph to the following address:

Tiffany DeLong, RCRA Section  
Chemical Branch  
Enforcement and Compliance Assurance Division  
U.S. Environmental Protection Agency, Region 7  
11201 Renner Boulevard  
Lenexa, Kansas 66219  
*delong.tiffany@epa.gov*.

### **Effect of Settlement and Reservation of Rights**

103. Execution of this Consent Agreement shall only resolve Respondent's liability 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.

104. 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 paragraph directly below.

105. Respondent certifies by the signing of this Consent Agreement and Final Order that 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.

106. Execution of 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.

107. 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, and to seek penalties against Respondent in an amount not to exceed Seventy Thousand Seven Hundred Fifty-Two Dollars (\$70,752) per day, per violation, pursuant to Section 3008(c) of RCRA, for each day of non-compliance with the terms of this Consent Agreement and Final Order, or to seek any other remedy allowed by law.

108. 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.

109. 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.

110. Nothing contained in 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**

111. By signing this Consent Agreement, the undersigned representative of Respondent certifies that they are fully authorized to execute and enter into the terms and conditions of this Consent Agreement and has the legal capacity to bind the party they represent to this Consent Agreement.

112. 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 filing 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.

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

114. 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.

115. 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.



COMPLAINANT:

U.S. ENVIRONMENTAL PROTECTION AGENCY

\_\_\_\_\_  
Date

\_\_\_\_\_  
David Cozad  
Director  
Enforcement and Compliance Assurance Division

\_\_\_\_\_  
Date

\_\_\_\_\_  
Antonette Palumbo  
Office of Regional Counsel

RESPONDENT:

Borghi USA, Inc.

07/09/25  
Date

  
Signature

PAOLO BORCHI  
Printed Name

PRESIDENT  
Title

**FINAL ORDER**

Pursuant to 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 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  
Regional Judicial Officer

\_\_\_\_\_  
Date

## CERTIFICATE OF SERVICE

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 Email to Complainant:

Antonette Palumbo  
Office of Regional Counsel  
*palumbo.antonette@epa.gov*

Tiffany DeLong  
Enforcement and Compliance Assurance Division  
*delong.tiffany@epa.gov*

Carrie Venerable | New Solutions Workforce  
Office of Regional Counsel  
*venerable.carrie@epa.gov*

Copy via Email to Counsel for Respondent and Respondent:

Jessica Merrigan, Spencer Fane, LLP  
*jmerrigan@spencerfane.com*

Matthew Brakeville, Borghi USA, Inc.  
*matthew.brakeville@borghiusainc.com*

Copy via Email to the State of Iowa:

Ed Tormey, Acting Administrator (e-copy)  
Environmental Services Division  
Iowa Department of Natural Resources  
*ed.tormey@dnr.iowa.gov*

Mike Sullivan, Chief (e-copy)  
Contaminated Sites Section  
Iowa Department of Natural Resources  
*michael.sullivan@dnr.iowa.gov*

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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Signed