

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

In the Matter of:)
)
Scranton Manufacturing Company, Inc.,) **Docket No. RCRA-07-2021-0049**
)
 Respondent.)
_____)

CONSENT AGREEMENT AND FINAL ORDER

PRELIMINARY STATEMENT

The U.S. Environmental Protection Agency (EPA), Region 7 (“Complainant”) and Scranton Manufacturing Company, 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 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), 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 Sections 3002 and 3005 of RCRA, 42 U.S.C §§ 6922 and 6925, the notification standards (40 C.F.R. § 262.18), biennial reporting standards (40 C.F.R. § 262.41), and the standards applicable to generators of hazardous waste (40 C.F.R. Part 262).

Parties

3. Complainant is the Chief of the Chemical Branch, Enforcement and Compliance Assurance Division, Region 7, as duly delegated by the Administrator of EPA.

4. Respondent is Scranton Manufacturing Company, Inc., a corporation authorized to operate under the laws of Iowa.

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 3002 and 3005 of RCRA, 42 U.S.C. §§ 6922 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 262.

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 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.

9. 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.

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

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

13. 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.

14. 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).

15. 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.

16. 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 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 \$76,764 for violations that occur after November 2, 2015, and for which penalties are assessed on or after December 23, 2020. 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

17. Respondent is a 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).

18. Respondent owns and operates a facility is located at 101 State Street, Scranton, Iowa (“facility”). Respondent manufactures refuse truck equipment and employs approximately 302 people at this facility.

19. On or about November 17, 1994, Respondent notified EPA, pursuant to Section 3010 of RCRA, 42 U.S.C. § 6930, as a Very Small Quantity Generator (“VSQG”) of hazardous waste.

20. On or about May 5, 2020, EPA issued a Request for Information (“RFI”) regarding the hazardous waste management practices at Respondent’s facility. Based on the hazardous waste manifests prepared by Respondent and Respondent’s response to the RFI, it was determined that Respondent was operating, at the time of the RFI, as a Large Quantity Generator (“LQG”) of hazardous waste.

21. Pursuant to Respondent’s manifests and response to the RFI, Respondent generates ignitable characteristic hazardous waste (D001), toxic methyl ethyl ketone

characteristic hazardous waste (D035), and listed non-halogenated solvent hazardous waste (F003 and F005).

22. Respondent has been assigned the following EPA ID Number: IAD984589895.

Violations

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

Count 1

Failure to Re-Notify

24. Complainant hereby incorporates the allegations contained in Paragraphs 17 through 22 above, as if fully set forth herein.

25. Pursuant to 40 C.F.R. § 262.18(d)(2), an LQG must re-notify EPA by March 1 of each even-numbered year in order to update the LQG site information and confirm the information remains accurate.

26. Manifests prepared by Respondent indicate it operated as an LQG for multiple months in 2018, 2019 and 2020.

27. At the time of the RFI, Respondent's generator status in RCRAInfo, a national program management and inventory system for hazardous waste handlers, showed Respondent notified as a VSQG.

28. Respondent failed to renotify as an LQG by March 1, 2020.

29. Respondent's failure to renotify as an LQG by March 1, 2020, is a violation of 40 C.F.R. § 262.18(d)(2).

Count 2

Failure to Submit Biennial Report

30. Complainant hereby incorporates the allegations contained in Paragraphs 17 through 22 above, as if fully set forth herein.

31. Pursuant to 40 C.F.R. § 262.41(a), each generator who is an LQG for at least one month of an odd-number year who ships any hazardous waste off-site to a treatment, storage or disposal facility must complete a biennial report by March 1 of the following even-numbered year and must cover generator activities during the previous year.

32. Manifests prepared by Respondent indicate it operated as an LQG for multiple months in 2018, 2019 and 2020 and shipped hazardous waste off-site to a treatment, storage or disposal facility.

33. Respondent failed to complete a biennial report by March 1, 2020.

34. Respondent's failure to complete a biennial report by March 1, 2020, is a violation of 40 C.F.R. § 262.41(a).

Count 3

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

35. Complainant hereby incorporates the allegations contained in Paragraphs 17 through 22 above, as if fully set forth herein.

36. 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.

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

Generator Requirements

38. The regulation at 40 C.F.R. § 262.17 states that an LQG may accumulate hazardous waste on-site without a permit or interim status, and without complying with the requirements of Parts 124, 264 through 267, and 270 of this chapter, or the notification requirements of Section 3010 of RCRA, provided all the conditions for exemption are met. Noncompliance by any generator with an applicable condition for exemption from storage permit and operations requirements means that the facility is a storage facility operating without an exemption from the permit, interim status, and operations requirements. Respondent failed to comply with the following conditions:

Emergency Procedures

39. To be conditionally exempt from hazardous waste storage permitting and operating requirements, the regulations at 40 C.F.R. § 262.17(a)(6) require LQGs to 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: Arrangements With Local Authorities

40. Pursuant to 40 C.F.R. § 262.256(a), found in subpart M, an 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.

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

42. At the time of the RFI, Respondent failed to attempt to make arrangements with all the local emergency responders, including but not limited to the local hospitals.

43. At the time of the RFI, Respondent failed to maintain records documenting arrangements made with appropriate emergency responders.

Emergency Procedures: Purpose and Implementation of Contingency Plan

44. To be conditionally exempt from hazardous waste storage permitting and operating requirements, the regulations at 40 C.F.R. § 262.260(a), found in subpart M, require that an 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.

45. At the time of the RFI, Respondent did not have a contingency plan.

Personnel Training: Program of Instruction

46. To be conditionally exempt from hazardous waste storage permitting and operating requirements, the regulations at 40 C.F.R. § 262.17(a)(7)(i)(A) require that 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.

47. Pursuant to 40 C.F.R. § 262.17(a)(7)(i)(B), 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.

48. At the time of the RFI, Respondent's training program did not teach facility personnel hazardous waste management procedures relevant to each employee's position. The training also did not cover contingency plan implementation.

Personnel Training: Documentation and Records

49. To be conditionally exempt from hazardous waste storage permitting and operating requirements, the regulations at 40 C.F.R. § 262.17(a)(7)(iv) require that the LQG maintain the following documents and records at the facility:

- a. The job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job. 40 C.F.R. § 262.17(a)(7)(iv)(A).
- b. A written job description for each position at the facility related to hazardous waste management. 40 C.F.R. § 262.17(a)(7)(iv)(B).
- c. A written description of the type and amount of both introductory and continuing training that will be given to each person filling a position at the facility related to hazardous waste management. 40 C.F.R. § 262.17(a)(7)(iv)(C).
- d. Records that document that the training or job experience, required under paragraphs (a)(7)(i), (ii), and (iii) of this section, has been given to, and completed by, facility personnel. 40 C.F.R. § 262.17(a)(7)(iv)(D).

50. At the time of the RFI, the information described in the immediately preceding paragraph was not maintained.

51. Because Respondent failed to comply with the generator requirements as set forth in Paragraphs 38 through 50 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 in violation of Section 3005 of RCRA, 42 U.S.C. § 6925, and was also in violation of the cited operating requirements.

CONSENT AGREEMENT

52. 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.

53. 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.

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

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

56. Respondent consents to receiving an electronic copy of the filed Consent Agreement and Final Order at the following email address: *lhoffman@pullcom.com*.

Penalty Payment

57. Respondent agrees that, in settlement of the claims alleged herein, Respondent shall pay a civil penalty of Fifty Thousand Two Hundred and Six Dollars (\$50,206), as set forth below.

58. 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>.

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

Regional Hearing Clerk
R7_Hearing_Clerk_Filings@epa.gov; and

Kelley Catlin, Attorney
catlin.kelley@epa.gov.

60. 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

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

62. Within thirty (30) days of the Effective Date of this Consent Agreement and Final Order, Respondent shall submit the following documentation to EPA:

- a. Re-notification to EPA using EPA Form 8700-12.
- b. Submit the biennial report using EPA Form 8700-13 A/B.

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

Marc Matthews, ECAD/CB/RCRA Section
U.S. Environmental Protection Agency, Region 7
matthews.marc@epa.gov.

Effect of Settlement and Reservation of Rights

64. 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.

65. 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.

66. 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.

67. 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.

68. 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 Sixty One Thousand Eight Hundred Twenty Dollars (\$61,820) 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.

69. 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.

70. 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.

71. 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

72. 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.

73. 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.

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

75. 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.

76. 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

Candace Bednar
Chemical Branch Chief
Enforcement and Compliance Assurance Division

Date

Kelley Catlin
Office of Regional Counsel

RESPONDENT:

Scranton Manufacturing Company, Inc.

4/29/21
Date


Signature

Lucas Gray
Printed Name

Director of Human Resources
Title

FINAL ORDER

Pursuant to Sections 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
Regional Judicial Officer

Date