

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
Dallas, Texas 75270

In the Matter of	§	
	§	
Heavy-Duty Equipment, Inc.,	§	Docket No. RCRA-06-2024-0925
	§	
Respondent.	§	

EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER

1. The U.S. Environmental Protection Agency, Region 6 ("EPA") is authorized to enter into this Expedited Settlement Agreement ("Agreement") pursuant to Section 3008 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6928 and 40 C.F.R. § 22.13(b).

2. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), EPA has provided notice to the state of Texas of this action.

3. Heavy-Duty Equipment, Inc. ("Respondent") is the owner or operator of the facility located at 440 RL Ostos Rd in Brownsville, TX 78521 (the "Facility").

4. The EPA alleges that Respondent violated the following requirements of RCRA and the EPA approved and authorized Texas hazardous waste management program:

a. Failure to Make a Hazardous Waste Determination

Pursuant to 30 TEX.ADMIN.CODE § 335.504(a) [40 C.F.R. § 262.11], a person who generates a solid waste, as defined in §335.1 of this title (relating to Definitions), must make an accurate determination as to whether that waste is a hazardous waste in order to ensure wastes are properly managed according to applicable RCRA and Texas Administrative Code regulations. The hazardous waste determination for each solid

waste must be made at the point of waste generation, before any dilution, mixing, or other alteration of the waste occurs, and at any time in the course of its management that it has, or may have, changed its properties as a result of exposure to the environment or other factors that may change the properties of the waste such that the RCRA classification of the waste may change. The Facility failed to make accurate hazardous waste determinations on two solid waste streams identified by the EPA in violation of 30 TEX.ADMIN.CODE § 335.504(a) [40 C.F.R. § 262.11].

b. Failure to Meet the Standards for Management of Used Oil

Pursuant to 30 TEX.ADMIN.CODE § 324.1, a person(s) managing used oil must comply with the requirements of 30 TEX.ADMIN.CODE Chapter 324 and the requirements in 40 C.F.R. Part 279, Standards for the Management of Used Oil. The facility failed to comply by improperly labeling one Used Oil above-ground tank and one Used Oil container in violation of 30 TEX.ADMIN.CODE § 324.1 [40 C.F.R. § 279.22].

5. The EPA and Respondent agree that settlement of this matter for a civil penalty of two thousand five hundred (\$2,500.00) dollars is in the public interest. Respondent certifies that it has provided payment for the full civil penalty amount, and that such payment identified Respondent by name and docket number, was made by certified or cashier's check made payable to the "United States Treasury", and sent to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979078
St. Louis, Missouri 63197-9000

or by alternate payment method described at <http://www.epa.gov/financial/makepayment>.

6. Respondent certifies that the original Agreement and a true and accurate copy of the deposit for payment was submitted to:

U.S. EPA, Region 6
Enforcement and Compliance Assurance Division (ECD-SR)
ATTN: Erin Young-Dahl
1201 Elm Street, Suite 500
Dallas, Texas 75270-2102
youngdahl.erin@epa.gov

7. In signing this Agreement, Respondent (a) admits that Respondent is subject to RCRA and the implementing regulations; (b) admits that the EPA has jurisdiction over Respondent and Respondent's conduct as alleged herein; (c) neither admits nor denies the factual allegations contained herein; (d) consents to the assessment of this penalty; (e) waives the opportunity for a hearing to contest any issue of fact or law set forth herein; (f) waives its right to appeal the Final Order accompanying this Agreement pursuant to Section 3008(b) of RCRA, 42 U.S.C. § 6928(b); and (g) consents to electronic service of the filed ESA.

8. By signature below, Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that Respondent has corrected the alleged violations, as applicable, and has submitted true and accurate documentation of such correction along with this Agreement.

9. The undersigned representative of Respondent certifies that he or she is fully authorized to enter the terms and conditions of this Expedited Settlement Agreement and Final Order and to execute and legally bind Respondent to it. Upon the effective date of this Agreement, payment of the civil penalty shall constitute full settlement of the civil claims alleged herein.

10. Full payment of the civil penalty shall only resolve Respondent's liability for federal civil penalties for the violations alleged herein. EPA reserves its rights to take enforcement action for any other past, present, or future violations of RCRA, any other federal statute or regulation, or this Agreement.

11. Each party shall bear its own costs and fees, if any.

12. The Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. § 22.31(b), is effective upon filing.

13. This Agreement authorized by the EPA's execution of the Final Order attached hereto constitutes a final order under 40 C.F.R. Part 22.

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

15. The EPA and Respondent agree to the use of electronic signatures for this matter pursuant to 40 C.F.R. § 22.6. The EPA and Respondent further agree to electronic service of this Agreement by email to the following:

To EPA: taylor.nathan@epa.gov and

youngdahl.erin@epa.gov

To Respondent: lostos@dixshipping.com

RESPONDENT:
HEAVY DUTY EQUIPMENT

Date: 12/28/23


Signature

Lee Ostas
Name

President
Title

COMPLAINANT:
U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: January 3, 2024

Cheryl T. Seager
Director
Enforcement
and Compliance Assurance Division
U.S. EPA, Region 6

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 Expedited Settlement Agreement resolving this matter is hereby ratified and incorporated by reference into this Final Order.

Respondent is ORDERED to comply with all of the terms of the Expedited Settlement Agreement. In accordance with 40 C.F.R. § 22.31(b), the effective date of the foregoing Expedited Settlement Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

This Final Order shall only resolve respondent's liability for Federal civil penalties for the violations and facts alleged in the Expedited Settlement Agreement. Nothing in this Final Order shall be construed to waive, extinguish, or otherwise affect Respondents' (or its officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action.

IT IS SO ORDERED.

Thomas Rucki
Regional Judicial Officer

Date

CERTIFICATE OF SERVICE

I certify that that a true and correct copy of the foregoing Expedited Settlement Agreement and Final Order was delivered to the Regional Hearing Clerk, U.S. EPA, Region 6, 1201 Elm Street, Dallas, Texas 75270-2102, and that a true and correct copy was sent this day in the following manner to the addressees:

Copy via Email to Complainant:

taylor.nathan@epa.gov and
youngdahl.erin@epa.gov

Copy via Email to Respondent:

lostos@dixshipping.com

Signed
U.S. EPA, Region 6