

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1201 Elm Street, Suite 500
Dallas, Texas 75270**

In the Matter of	§	
	§	
Vopak Terminal Corpus Christi,	§	Docket No. RCRA-06-2025-0904
	§	
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. Vopak Terminal Corpus Christi (“Respondent”) is the owner or operator of the facility located at 262 Key Bailey Hutchenson Road, Portland, Texas, 78374 (the “Facility”). 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 Label Hazardous Waste

- i. Facility did not label its Hazardous Waste holding tank as “Hazardous Waste” in violation of 40 CFR 262.17 (a)) (5)(ii)(A) and failed to mark a 5-gallon and 55-gallon drum of Hazardous Waste as “Hazardous Waste” in violation of 40 CFR 262.15(a)(5)(i)).
- ii. Pursuant to 30 TEX.ADMIN.CODE §335.53(f) [40 CFR 262.17], a large quantity generator may accumulate hazardous waste on site without a permit, interim status, or without complying with requirements from 124, 264 through 267, and 270, or the notification requirements of section 3010 of RCRA for treatment, storage, and disposal facilities,

provided that the conditions for exemption are met.

- iii. The conditions for exemption include the requirements of 30 TEX.ADMIN.CODE §335.53(f) [40 CFR 262.17(a)(5)(ii)]: a large quantity generator accumulating hazardous waste must mark or label its containers and tanks with the words “Hazardous Waste” and with an indication of the hazards of the contents. The facility failed to comply by accumulating hazardous waste in an unmarked tank T-130-01, 5-gallon, and 55-gallon drum. The tank was managed in violation of 30 TEX.ADMIN.CODE §335.53(f) [40 CFR 262.17].

b. Failure to Meet Satellite Accumulation Area Regulations for Large Quantity Generators

- i. Pursuant to 30 TEX.ADMIN.CODE §335.53(d) [40 CFR 262.15(a)(4)], a container holding hazardous waste must be closed at all times during accumulation except: when adding, removing, or consolidating waste, or when temporary venting of a container is necessary; and also includes the requirement 30 TEX.ADMIN.CODE §335.53(d) [40 CFR 262.15(a)(5)], a generator must mark or label its container with the words “Hazardous Waste” and with an indication of its contents.
- ii. Facility failed to comply with accumulation requirements set forth in 30 TEX.ADMIN.CODE §335.53(d) [40 CFR 262.15(a)(4)] by accumulating Hazardous Waste in an unmarked 55-gallon drum at the hazardous waste satellite accumulation area (SAA) containing drip from hazardous waste tank T-130-01, and an unmarked open 5-gallon container in the SAA containing residual hazardous waste liquid from T-130-01. These containers in the SAA were managed in violation of 30 TEX.ADMIN.CODE §335.53(d) [40 CFR 262.15(a)].

4. The EPA and Respondent agree that settlement of this matter for a civil penalty of \$2,500 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>.

Respondent certifies that the original Agreement and a true and accurate PDF copy of the deposit for payment was submitted VIA EMAIL to:

U.S. EPA, Region 6
Enforcement and Compliance Assurance Division (ECDSR)
1201 Elm Street, Suite 500
Dallas, Texas 75270-2102
ATTN: Ashley Pederson
pederson.ashley@epa.gov

5. 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; and (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.

6. By signature below, Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that Respondent: (a) has corrected the alleged violations, as applicable, and has submitted true and accurate documentation of such correction along with this Agreement; (b) has submitted payment of the civil penalty as set forth below; and (c) has submitted a true and accurate proof of payment of the civil penalty along with this Agreement.

7. 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.

8. 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.

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

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

11. 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.

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

13. 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: pederson.ashley@epa.gov and

Murdock.Russell@epa.gov

To Respondent: gary.jackson@vopak.com

RESPONDENT:
Vopak Terminal Corpus Christi

Date

Signature

Name

Title

COMPLAINANT:
U.S. ENVIRONMENTAL PROTECTION AGENCY

Date

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 resolve only those causes of action 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 a true and correct copy of the foregoing Expedited Settlement Agreement and Final Order was filed with me, the Regional Hearing Clerk, U.S. EPA, Region 6, 1201 Elm Street, Suite 500, Dallas, Texas 75270-2102, and that I sent a true and correct copy on this day in the following manner to the addressees:

Copy via Email to Complainant, EPA:

Pederson.ashley@epa.gov

Vaugh.lorena@epa.gov

Copy via Email to Respondent:

gary.jackson@vopak.com
Vopak Terminal Corpus Christi
262 Key Bailey Hutchenson Road
Portland, Texas 78374

Office of Regional Counsel
U.S. EPA, Region 6