

2023 WL 2576683 (Ind.Dept.Env.Mgmt.)

Indiana Department of **Environmental** Management

State of Indiana

COMMISSIONER OF THE DEPARTMENT OF **ENVIRONMENTAL** MANAGEMENT, COMPLAINANT

v.

STONCOR GROUP, INC., RESPONDENT

Case No. 2023-29165-H

February 22, 2023

**County of Marion**

**AGREED ORDER**

\*1 Complainant and Respondent desire to settle and compromise this action without hearing or adjudication of any issue of fact or law, and consent to the entry of the following Findings of Fact and Order. Pursuant to [Indiana Code \(“IC”\) 13-30-3-3](#), entry into the terms of this Agreed Order does not constitute an admission of any violation contained herein. Respondent's entry into this Agreed Order shall not constitute a waiver of any defense, legal or equitable, which Respondent may have in any future administrative or judicial proceeding, except a proceeding to enforce this order.

**I. FINDINGS OF FACT**

1. Complainant is the Commissioner (“Complainant”) of the Indiana Department of **Environmental** Management (“IDEM”), a department of the State of Indiana created by IC 13-13-1-1.
2. Respondent is StonCor Group, Inc. (“Respondent”), which owns/operates the facility with United States **Environmental** Protection Agency (“EPA”) ID No. INR000115295, located at 4115 Polymer Place, in Fort Wayne, Allen County, Indiana (“Site”).
3. IDEM has jurisdiction over the parties and the subject matter of this action.
4. Respondent waives the issuance of a Notice of Violation and the settlement period of sixty (60) days as provided for by IC 13-30-3-3.
5. Respondent notified EPA of Large Quantity Generator activities.
6. Respondent is a distribution and manufacturing warehouse.
7. 329 Indiana Administrative Code (“IAC”) 3.1 incorporates federal hazardous waste management requirements found in 40 Code of Federal Regulations (“CFR”) Parts 260 through 270 and Part 273, including those identified below.
8. On August 10, 2021, EPA issued a Memorandum titled “Regulatory Options for Addressing the Temporary Backlog of Containerized Hazardous Waste Needing Incineration.” Facilities may be capable of storing backlogged containerized waste

absent permit modifications if their permit allows storage of those types of containerized waste and waste codes and their RCRA permitted container storage capacity will not be exceeded. The incinerator backlog is expected to be limited in both duration and scope; current information indicates that extensions will not be needed beyond March 2022. This Agreed Order addresses hazardous waste previously determined to have a combustion treatment standard as required by [40 CFR 268.40](#).

9. On October 26, 2022, per [40 CFR 262.17\(b\)](#), Respondent submitted a request for a 30-day extension of the 90-day accumulation time for hazardous waste with a treatment standard of combustion per [40 CFR 268.40](#). The extension request is due to an existing, temporary, incinerator backlog. On November 3, 2022, IDEM approved the 30-day accumulation storage extension until December 8, 2022, for six (6) 5-gallon containers of Benox L-40V, January 12, 2023, for one (1) 5-gallon container of epoxy/amine/isocyanate titration waste, and January 19, 2023, for one (1) 5-gallon container of Benox L-40V.

\*2 10. On December 7, 2022, Respondent submitted a “Self-Disclosure and **Environmental Audit** Form” and on January 13, 2023, a revised “Self-Disclosure and **Environmental Audit** Form” regarding hazardous waste accumulation storage beyond the allowed storage extension.

11. As disclosed in the December 7, 2022 “Self-Disclosure and **Environmental Audit** Form” the following violation was identified:

a. Pursuant to [40 CFR 262.17\(a\)](#), a large quantity generator accumulates hazardous waste on site for no more than 90 days, unless in compliance with the accumulation time limit extension.

Pursuant [40 CFR 262.17\(b\)](#), a large quantity generator who accumulates hazardous waste for more than 90 days is subject to the requirements of 40 CFR parts 124, 264 through 268, and part 270 of this chapter, and the notification requirements of section 3010 of RCRA, unless granted by EPA if hazardous waste must remain on site for longer than 90 days due to unforeseen, temporary, and uncontrollable circumstances.

Respondent accumulated hazardous waste for more than 90-days and more than the approved 30-day accumulation extension, in violation of [40 CFR 262.17\(a\)](#).

12. Orders of the Commissioner are subject to administrative review by the Office of **Environmental** Adjudication under IC 4-21.5; however, in recognition of the settlement reached, Respondent acknowledge notice of this right and waives any right to administrative and judicial review of this Agreed Order.

## **II. ORDER**

1. This Agreed Order shall be effective (“Effective Date”) when it is approved by Complainant or Complainant's delegate and has been received by Respondent. This Agreed Order shall have no force or effect until the Effective Date.

2. Respondent shall comply with the rules listed in the findings above or any incorporated federal equivalent thereof, as applicable.

3. Upon the Effective Date of the Agreed Order, Respondent is granted a sixty (60) day extension for the accumulation of the hazardous waste destined for incineration due to the backlog at the permitted incinerators. If another extension is warranted, the request shall be submitted to [Hazwastereferrals @idem.in.gov](mailto:Hazwastereferrals@idem.in.gov) or 317- 234-6923, no later than ten (10) days prior to the extension's expiration date for approval. Thereafter, additional extensions may be requested in concurrence with the quarterly reports required in Order 7.

4. Immediately upon the Effective Date and until acceptance at an approved incinerator with available capacity, Respondent shall:

- a. ensure the hazardous waste containers are in good condition, compatible with the waste, and stored closed, and
- b. ensure emergency response equipment, including an internal communication or alarm system, a telephone or hand-held two-way radio, fire control equipment, spill control equipment, decontamination equipment, and water at adequate volume and pressure are in the designated storage area(s).

\*3 c. conduct and document daily inspections of the greater than 90/180/270-day designated storage area(s).

Respondent shall comply with [40 CFR 262.17](#) as soon as practicable.

5. Within fifteen (15) days of the Effective Date, Respondent shall submit to IDEM documentation showing Respondent's attempt to provide a map of the facility showing location of the designated storage area(s) with a narrative emphasizing increased storage amounts to local emergency responders.

6. Within forty-five (45) days of shipment of the excess hazardous waste being accumulated on site, Respondent shall submit to IDEM all hazardous waste manifests that include the signature of the designated treatment, storage, and/or disposal facility.

7. Within thirty (30) days of the Effective Date and quarterly thereafter, the 30<sup>th</sup> being the due date, Respondent shall submit to IDEM status reports for the accumulated hazardous waste destined for incineration, the reports shall include but not be limited to:

- a. Documentation of attempts to schedule the waste for incineration, such as a letter/email from the TSD stating that at this time they cannot accept the waste.
- b. The amount of hazardous waste on-site destined for incineration.
- c. If applicable, documentation of additional accumulation areas including a map with location(s) identified.

8. In the event the terms and conditions of the following paragraphs are violated, Complainant may assess and Respondent shall pay stipulated penalties in the following amounts:

<b>Paragraph</b>	<b>Stipulated Penalty</b>
Order paragraph #5	\$100 per week
Order paragraph #6	\$100 per week
Order paragraph #7	\$100 per week

9. Stipulated penalties shall be due and payable after Respondent receives written notice that Complainant has determined a stipulated penalty is due; at which time, an invoice will be issued. Complainant may notify Respondent at any time that a stipulated penalty is due. Failure to notify Respondent in writing in a timely manner of a stipulated penalty assessment shall not waive Complainant's right to collect such stipulated penalty or preclude Complainant from seeking additional relief

against Respondent for violation of this Agreed Order. Neither assessment nor payment of stipulated penalties shall preclude Complainant from seeking additional relief against Respondent for a violation of this Agreed Order; such additional relief includes any remedies or sanctions available pursuant to Indiana law, including, but not limited to, civil penalties pursuant to IC 13-30-4.

10. Stipulated penalties are payable to the “**Environmental** Management Special Fund” by:

Mail:

Checks shall include the Case Number of this action and shall be mailed to:

Indiana Department of **Environmental** Management

Accounts Receivable

IGCN, Room 1340

100 North Senate Avenue

Indianapolis, IN 46204

Online:

Accounts Receivable is accepting payments online by e-Check, Master Card, Visa or Discover. Please visit [www.IN.gov/IDEM](http://www.IN.gov/IDEM). Under Online Services, click Online Payment options and follow the prompts. A processing fee of \$1 plus 1.99% will be charged for credit card payments. A processing fee of \$1.00 will be charged for eCheck payments.

\*4 The Case Number is required to complete the process.

Phone:

You may also call us at 317-234-3099 and follow the instructions for Master Card, Visa or Discover payments. A processing fee of \$1 plus 1.99% will be charged for credit card payments. A processing fee of \$1.00 will be charged for eCheck payments.

11. In the event that the monies due to IDEM pursuant to this Agreed Order are not paid on or before their Due Date, Respondent shall pay an additional penalty of 10 percent, payable to the “**Environmental** Management Special Fund”, and shall be payable to IDEM in the manner specified in Paragraph 10, above.

12. Signatories to this Agreed Order certify that they are fully authorized to execute this Agreed Order and legally bind the party they represent.

13. This Agreed Order shall apply to and be binding upon Respondent and all successors and assigns. Respondent shall provide a copy of this Agreed Order, if in force, to any subsequent owners, successors, or assigns before ownership rights are transferred.

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14. No change in ownership, corporate, or partnership status of Respondent shall in any way alter the Respondent's status or responsibilities under this Agreed Order.

15. Respondent shall ensure that all contractors, firms, and other persons performing work under this Agreed Order comply with the terms of this Agreed Order.

16. In the event that any terms of this Agreed Order are found to be invalid, the remaining terms shall remain in full force and effect and shall be construed and enforced as if this Agreed Order did not contain the invalid terms.

17. This Agreed Order is not and shall not be interpreted to be a permit or a modification of an existing permit. This Agreed Order, and IDEM's review or approval of any submittal made by Respondent pursuant to this Agreed Order, shall not in any way relieve Respondent of the obligation to comply with the requirements of any applicable permits or any applicable Federal or State laws or regulations.

18. Complainant does not, by its approval of this Agreed Order, warrant or aver in any manner that Respondent's compliance with any aspect of this Agreed Order will result in compliance with the provisions of any permit, order, or any applicable Federal or State law or regulation. Additionally, IDEM or anyone acting on its behalf shall not be held liable for any costs or penalties Respondent may incur as a result of Respondent's efforts to comply with this Agreed Order.

19. Nothing in this Agreed Order shall prevent or limit IDEM's rights to obtain penalties or injunctive relief under any applicable Federal or State law or regulation, except that IDEM may not, and hereby waives its right to seek additional civil penalties for the violation specified in this Agreed Order.

20. Nothing in this Agreed Order shall prevent IDEM or anyone acting on its behalf from communicating with the EPA or any other agency or entity about any matters relating to this enforcement action. IDEM or anyone acting on its behalf shall not be held liable for any costs or penalties Respondent may incur as a result of such communications with the U.S. EPA or any other agency or entity.

\*5 21. This Agreed Order shall remain in effect until IDEM issues a Resolution of Case letter to Respondent.

**TECHNICAL RECOMMENDATION:**

Department of **Environmental** Management

By: \_\_\_\_\_

Jennifer Reno, Chief

Land Enforcement Section

Compliance Branch

Office of Land Quality

Date: \_\_\_\_\_

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**RESPONDENT:**

By: \_\_\_\_\_

Printed: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**COUNSEL FOR RESPONDENT:**

By: \_\_\_\_\_

Printed: \_\_\_\_\_

Date: \_\_\_\_\_

APPROVED AND ADOPTED BY THE INDIANA DEPARTMENT OF **ENVIRONMENTAL** MANAGEMENT THIS \_\_\_\_  
DAY OF \_\_\_\_\_, 20\_\_.

For the Commissioner:

Signed 2/22/2023

Peggy Dorsey  
Assistant Commissioner  
Office of Land Quality

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