

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

_____)	
UNITED STATES OF AMERICA,)		
LOUISIANA DEPARTMENT OF)		
ENVIRONMENTAL QUALITY, AND)		
THE STATE OF INDIANA,)		
)		
Plaintiffs,)		
)		
v.)	Civil Action No. 1:22-cv-00303	
)		
HERITAGE-CRYSTAL CLEAN, LLC)		
)		
Defendant.)		
_____)	

COMPLAINT

Plaintiffs, the United States of America, by and through the Attorney General of the United States, acting at the request and on behalf of the Administrator of the United States Environmental Protection Agency (“EPA”); the Louisiana Department of Environmental Quality (“LDEQ”); and the state of Indiana, by and through the Attorney General of Indiana, acting at the request of and on behalf of the Commissioner of the Indiana Department of Environmental Management (“IDEM”), file this Complaint and allege as follows:

NATURE OF THIS ACTION

1. This is a civil action brought against Heritage-Crystal Clean, LLC (“HCC” or “Defendant”) by Plaintiffs pursuant to Sections 3008(a) and (g) of the Resource Conservation and Recovery Act (“RCRA”), as amended, 42 U.S.C. § 6928(a) and (g), La. R.S. 30:2025, and Indiana Code Section 13-30-4-1. In this action, Plaintiffs seek injunctive relief and civil penalties for violations of regulations that are part of federally authorized and federally enforceable hazardous waste management programs applicable to facilities owned or operated by HCC at

various locations around the country. The state of Indiana also seeks injunctive relief and civil penalties for violation of terms and conditions of a solid waste processing facility permit and violation of applicable state regulations that prohibit solid waste processing facilities from accepting hazardous waste.

2. As set forth below, Defendant has violated the statutory and regulatory requirements applicable to the management and disposal of solid and hazardous waste found in Title 33 of the Louisiana Administrative Code (“LAC”) Part V, Chapters 1 through 51; Title 329, Article 3.1 of the Indiana Administrative Code (“IAC”), which incorporates specified provisions of 40 C.F.R. Parts 260–270 (2008) by reference; Title 6 of the Code of Colorado Regulations (“CCR”), Section 1007-3, Parts 100, 260–279 (2012); Ga. Comp. R. and Regs. 391-3-11 (2016), which incorporates specified provisions of 40 C.F.R. Parts 260–279 (2016) by reference; Title 25 of the Pennsylvania Code (“Pa. Code”), which incorporates specified provisions of 40 C.F.R. Parts 260–270 (2005) by reference; Section 3005 of RCRA, 42 U.S.C. § 6925; La. R.S. 30:2183; and Indiana Code Section 13-30-2-1 (10).

PARTIES

3. Plaintiffs are the United States of America, the Louisiana Department of Environmental Quality, and the state of Indiana, on behalf of Indiana Department of Environmental Management.

4. Defendant is HCC, a limited liability company organized under the laws of the state of Indiana. HCC’s corporate headquarters is in Elgin, Illinois. HCC is registered to do business in numerous states, including Indiana, Louisiana, Colorado, Georgia, and Pennsylvania.

5. HCC is a “person” within the meaning of Section 1004(15) of RCRA, 42 U.S.C. § 6903(15); LAC 33:V.109 (2014); 329 IAC 3.1-4-20 (2010) and 40 C.F.R. § 260.10 (2008), which is incorporated by reference in 329 IAC 3.1-4-1 (2010); 6 CCR 1007-3 § 260.10 (2012);

40 C.F.R. § 260.10 (2016), which is incorporated by reference in Ga. Comp. R. and Regs. 391-3-11.02(1) (2016); and 40 C.F.R. § 260.10 (2005), which is incorporated by reference in 25 Pa. Code § 260a.1 (2005).

JURISDICTION, VENUE, AUTHORITY AND NOTICE

6. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1345, and 1355, and RCRA Sections 3008(a) and (g), 42 U.S.C. §§ 6928(a) and (g). Pursuant to 28 U.S.C. § 1367(a), this Court also has supplemental jurisdiction over all claims asserted in this complaint by LDEQ and Indiana under state law because such claims are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution.

7. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b) and 1395(a), and RCRA Section 3008(a)(1), 42 U.S.C. § 6928(a)(1), because Defendant resides and is found within this district within the meaning of 28 U.S.C. §§ 1391(b) and 1395(a).

8. Authority to bring this civil action on behalf of EPA is vested in the Attorney General of the United States pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and 28 U.S.C. §§ 516 and 519.

9. Authority to bring this civil action on behalf of EPA is vested in LDEQ under La. R.S. 36:231 with the concurrence of the Attorney General of the state of Louisiana, at the request of the Secretary of the LDEQ pursuant to La. R.S. 30:2025, La. R.S. 30:2050.7, and LAC 33:V.107.

10. The Indiana Attorney General is authorized to appear and represent Indiana and IDEM in this case pursuant to Indiana Code Sections 4-6-3-2(a) and 13-14-2-6.

11. IDEM may proceed in court, by appropriate action, to procure or secure compliance with Title 13 of the Indiana Code or any other law that IDEM has the duty or power to enforce, pursuant to Indiana Code Section 13-14-2-6 (3).

12. IDEM may proceed in court, by appropriate action, to procure compliance with any standard or rule of the board pursuant to Indiana Code Section 13-14-2-6 (4).

13. IDEM may recover a civil penalty for violations of environmental laws, rules or permits in a civil action commenced in any court with jurisdiction pursuant to Indiana Code Section 13-30-4-1(b).

14. The United States provided notice to the States of Louisiana, Indiana, Colorado, Georgia, and the Commonwealth of Pennsylvania prior to the commencement of this action in accordance with RCRA Section 3008(a)(2), 42 U.S.C. § 6928(a)(2).

STATUTORY AND REGULATORY BACKGROUND

15. Subtitle III chapter C of RCRA (RCRA §§ 3001-3024, 42 U.S.C. §§ 6921-6939g, commonly referred to as “Subtitle C”) establishes a “cradle-to-grave” program for regulating the generation, transportation, treatment, storage, and disposal of hazardous waste. See 42 U.S.C. § 6901 *et seq.* Section 3014 of RCRA, 42 U.S.C. § 6935, which is also part of Subtitle C, also establishes a program for regulating used oil that is recycled.

16. Section 3001 of RCRA, 42 U.S.C. § 6921, authorizes the Administrator of EPA (“Administrator”) to promulgate regulations identifying characteristics of hazardous waste and listing hazardous wastes.

17. Pursuant to the authority under Section 3001 of RCRA, 42 U.S.C. § 6921, the Administrator has promulgated regulations identifying and listing hazardous wastes that are subject to regulation under Subtitle C of RCRA. These regulations are codified at 40 C.F.R. Part

261, and include regulations identifying hazardous waste characteristics (40 C.F.R. §§ 261.20–261.24) as well as regulations listing particular hazardous wastes (40 C.F.R. §§ 261.30–261.35).

18. Section 3002 of RCRA, 42 U.S.C. § 6922, authorizes the Administrator to promulgate regulations establishing standards applicable to generators of hazardous waste identified or listed under 40 C.F.R. Part 261.

19. Pursuant to the authority under Section 3002 of RCRA, 42 U.S.C. § 6922, the Administrator has promulgated regulations establishing standards applicable to generators of hazardous waste. These regulations are codified principally at 40 C.F.R. Part 262.

20. Section 3003 of RCRA, 42 U.S.C. § 6923, authorizes the Administrator to promulgate regulations establishing standards applicable to transporters of hazardous waste identified or listed under 40 C.F.R. Part 261.

21. Pursuant to the authority under Section 3003 of RCRA, 42 U.S.C. § 6923, the Administrator has promulgated regulations establishing standards applicable to transporters of hazardous waste. These regulations are codified at 40 C.F.R. Part 263.

22. Section 3004 of RCRA, 42 U.S.C. § 6924, authorizes the Administrator to promulgate regulations establishing standards applicable to facilities that treat, store or dispose of hazardous waste identified or listed under 40 C.F.R. Part 261.

23. Pursuant to the authority under Section 3004 of RCRA, 42 U.S.C. § 6924, the Administrator has promulgated regulations establishing standards applicable to facilities that treat, store or dispose of hazardous waste identified or listed under 40 C.F.R. Part 261, including regulations codified at 40 C.F.R. Parts 264 and 265.

24. Section 3005 of RCRA, 42 U.S.C. § 6925, authorizes the Administrator to promulgate regulations requiring each person owning or operating a hazardous waste treatment,

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