

FILED

June 24, 2024

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**U.S. EPA REGION 7
HEARING CLERK**

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 7**

In the Matter of

Elementis Specialties, Inc.
5548 Manchester Avenue
Saint Louis, Missouri 63110
RCRA ID No.: MOD006292296

Respondent.

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) **Docket No. RCRA-07-2024-0074**
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) **EXPEDITED SETTLEMENT**
) **AGREEMENT AND FINAL ORDER**
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EXPEDITED SETTLEMENT AGREEMENT

- 1) The U.S. Environmental Protection Agency (“EPA”) is authorized to enter into this Expedited Settlement Agreement (“Agreement” or “ESA”) pursuant to Section 3008(a) of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6928(a), and 40 C.F.R. § 22.13(b).
- 2) The EPA has provided the State of Missouri with notice of the referenced violations of Subtitle C of RCRA as required by Section 3008(a)(2).
- 3) Elementis Specialties, Inc. (“Respondent”) is the owner or operator of the facility located at 5548 Manchester Avenue, Saint Louis, Missouri 63110 (“Facility”). The EPA inspected the Facility, on September 26-27, 2023. As a result of the findings during the inspection and additional investigation, the EPA alleges that Respondent violated the following requirements of the RCRA hazardous waste management program:
 - a. Title 10 C.S.R. 25-5.262(1), referencing 40 C.F.R. § 262.11, requires that a generator of solid waste must determine if that waste is a hazardous waste in order to ensure wastes are properly managed according to applicable RCRA regulations. At the time of the EPA inspection, three waste streams listed below were identified for which the facility had not made a hazardous waste determination. This violation is documented by NOPF Number 1 on pages 6-9 and Photographs Number 1-5, 12-14, and 18-20 of the CEI report.
 - i. Various chemicals throughout the QC Laboratory,
 - ii. Various containers of mixed amine and alcohols in the central accumulation area and Amine Room, and
 - iii. Various substances left in secondary containment pallets on the north side of the facility.
 - b. Title 10 C.S.R. 25-5.262(1), referencing 40 C.F.R. § 262.34(a)(2), which requires that, for large quantity generators of hazardous waste (LQG), the date upon which each period of accumulation begins is clearly marked and visible for inspection on each hazardous waste accumulation container. At the time of the EPA inspection,

- Respondent had not labeled one blue, 55-gallon metal drum of hazardous waste mixed paste and gels sample containers. This violation is documented by NOPF Number 3 on page 8 and Photographs Number 6-8 of the CEI report.
- c. Title 10 C.S.R. 25-5.262(1), referencing 40 C.F.R. § 262.34(a)(4) and which references 40 C.F.R. § 265.16(d)(4), which requires an LQG to maintain records that document that the training or job experience required under 40 C.F.R. § 265.16(a-c) has been given to, and completed by facility personnel. At the time of the EPA inspection, facility representatives did not have annual training records for 2020-2023. Respondent has not adequately documented RCRA training. This violation is documented by NOPF Number 6 on page 11 of the CEI report.
 - d. Title 10 C.S.R. 25-5.262(1), referencing 40 C.F.R. § 262.34(a)(4) and which references 40 C.F.R. § 265.35, which requires an LQG to maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes. At the time of the EPA inspection, the facility was accumulating approximately 18 55-gallon drums in its central accumulation area on pallets. The drums were located three-deep against a fence with materials located against the fence on the other side. Respondent did not provide adequate aisle space around accumulation containers. This violation is documented by NOPF Number 2 on page 7 and Photograph Numbers 9-11 of the CEI report.
 - e. Title 10 C.S.R. 25-5.262(1), referencing 40 C.F.R. 262.34(a)(4) and which references 40 C.F.R. 265.52(d), which requires an LQG to have a contingency plan for its facility. The plan must list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator, and this list must be kept up to date. At the time of the EPA inspection, the list of emergency coordinators in Respondent's contingency plan was not up to date. This violation is documented by NOPF Number 4 on page 10 and Attachment 12 of the CEI report.
- 4) In determining the amount of the penalty to be assessed, EPA has taken into account the factors specified in Section 3008 of RCRA, 42 U.S.C. § 6928. After considering these factors, EPA has determined and Respondent agrees that settlement of this matter for a civil penalty of eleven thousand two hundred and fifty dollars (\$11,250.00) is in the public interest.
 - 5) 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 979078
St. Louis, Missouri 63197-9000

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

- 6) 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

Milady Peters, Paralegal
peters.milady@epa.gov.

- 7) In signing this Agreement, Respondent: (1) admits that Respondent is subject to RCRA and its implementing regulations; (2) admits that EPA has jurisdiction over Respondent and Respondent's conduct as alleged herein, (3) neither admits nor denies the factual allegations contained herein; (4) consents to the assessment of this penalty; (5) agrees to release funds held on deposit as payment to the EPA for the civil penalty upon final EPA approval of this Agreement; (6) waives the opportunity for a hearing to contest any issue of fact or law set forth herein; (7) waives its right to appeal the Final Order accompanying this Agreement pursuant to Section 3008(b) of RCRA; and (8) consents to electronic service of the filed ESA to the following email addresses: khama.jeffrey@elementis.com. Respondent understands that the ESA will become publicly available upon filing.
- 8) By its signature below Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that: (1) the alleged violations have been corrected, and (2) 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.
- 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 to execute and legally bind Respondent to it.
- 10) Full payment of the civil penalty shall only resolve Respondent's liability for federal civil penalties for the violations alleged herein. The EPA reserves the right to take any enforcement action with respect to any other past, present, or future violations of RCRA or any other applicable law.
- 11) The penalty specified herein shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal, State and local taxes.

- 12) Each party shall bear its own costs and fees, if any.
- 13) This Agreement is binding on the parties signing below.

IT IS SO AGREED,

Khama Jeffrey
Name (print)
PLANT MANAGER
Title (print)
Khama Jeffrey 5/20/2024
Signature Date

APPROVED BY EPA:

Jodi Bruno
Acting Director
Enforcement and Compliance Assurance Division

Date

Christopher Muehlberger, Attorney
Office of Regional Counsel

Date

FINAL ORDER

Pursuant to the authority of 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.

IT IS SO ORDERED.

Karina Borromeo
Regional Judicial Officer

Date

CERTIFICATE OF SERVICE
To be completed by EPA

I certify that that a true and correct copy of the foregoing Expedited Settlement Agreement and Final Order, in the matter of Elementis Specialties, Inc., EPA Docket No. RCRA-07-2024-0074, was sent this day in the following manner to the following addressees:

Copy via e-mail to Complainant:

Christopher Muehlberger, Office of Regional Counsel
Muehlberger.christopher@epa.gov

Edwin Buckner, Enforcement and Compliance Assurance Division
Buckner.edwin@epa.gov

Milady Peters, Office of Regional Counsel
peters.milady@epa.gov

Copy via e-mail to the Respondent:

Khama Jeffrey
Plant Manager
Elementis Specialties, Inc.
5548 Manchester Avenue
Saint Louis, Missouri 63110
khama.jeffrey@elementis.com

Copy via e-mail to the State of Missouri:

Chris Nagel, Director (Christopher.Nagel@dnr.mo.gov)
Waste Management Program
Missouri Department of Natural Resources

Nicole Eby (nicole.eby@dnr.mo.gov)
Missouri Department of Natural Resources

Dated this _____ day of _____, 2024.

Signed