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7/8/25

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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY REGION 1 U.S. EPA REGION 1
HEARING CLERK

IN THE MATTER OF:

Smith & Nephew, Inc.

130 Forbes Blvd

Mansfield, MA 02048-4315

Proceeding under Section 3008(a) of
Resource Conservation and Recovery
Act, 42 U.S.C. § 6928(a)

Docket No. RCRA-01-2025-0038

EXPEDITED SETTLEMENT
AGREEMENT

EXPEDITED SETTLEMENT AGREEMENT

1. Complainant, the U.S. Environmental Protection Agency ("EPA"), is authorized to enter into this Expedited Settlement Agreement ("Agreement" or "ESA") pursuant to Section 3008 of the Resource Conservation and Recovery Act ("RCRA") and 40 C.F.R. § 22.13(b).
2. By copy of this Agreement, EPA is providing the Commonwealth of Massachusetts with notice of the alleged violations of Subtitle C of RCRA, as required by Section 3008(a)(2).
3. Smith & Nephew, Inc. ("Respondent") is the owner or operator of a facility located at 130 Forbes Blvd., Mansfield, MA 02048-4315 ("Facility"). EPA conducted a compliance evaluation inspection ("Inspection") at the Facility on October 16-17, 2024. EPA alleges that Respondent violated the following requirements of RCRA and the EPA-approved and authorized Massachusetts hazardous waste management regulations set forth at 310 CMR 30.00 *et seq.*
 - a. Failure to perform a written hazardous waste tank assessment, reviewed and certified by an independent, qualified, registered, professional engineer, as required by 310 CMR 30.693, as referenced by 310 CMR 30.343(1)(c). At the time of the Inspection, the electropolish wastewater tank was being used to store hazardous waste and was not being managed as a hazardous waste tank. The electropolish wastewater tank receives spent electropolish bath waste which consists of a mixture of phosphoric and sulfuric acid. The electropolish wastewater tank is a single-walled 500-gallon tank. When the tank is full and needs to be emptied, the operator dispenses the waste via a flexible hose with a valve mechanism into 55-gallon drums and moves them to the hazardous waste accumulation area ("HWAA") to be picked up by Clean Harbors as hazardous waste (D002). According to Respondent's personnel, the tank was not assessed by a professional engineer before it was put into service.

- b. Failure to provide secondary containment that meets the requirements of 310 CMR 30.694 for all new and existing tank systems, as referenced by 310 CMR 30.343(1)(d)2. At the time of the Inspection, the electropolish wastewater tank was being used to store hazardous waste, and did not have secondary containment.
- c. Failure to perform hazardous waste tank inspections, as required by 310 CMR 30.696, as referenced by 310 CMR 30.343(1)(f). At the time of the Inspection, the electropolish wastewater tank was being used to store hazardous waste, and tank inspections were not being performed according to Respondent's personnel.
- d. Failure to clearly mark and label each tank in a manner which clearly identifies, in words, the hazardous waste(s) being stored or treated in the tank (e.g. acetone, toluene) and the hazard(s) associated with the hazardous waste (e.g. ignitable, toxic, dangerous when wet), along with the words "Hazardous Waste", as required by 310 CMR 30.343(1)(e), which references 310 CMR 30.695(3). At the time of the Inspection, the electropolish wastewater tank was labeled only with a corrosive diamond. The tank was not labeled with the words "Hazardous Waste" or with words that identified the hazardous waste stored in the tank. The tank held spent electropolish bath waste which is drummed and sent out as hazardous waste.
- e. Failure to include the time of the inspection and name of the inspector on the weekly inspection log, as required by 310 CMR 30.342(1)(d)(3). During the records review portion of the Inspection, the inspection team noted the inspection logs did not have the full name of the inspector, and the time of the inspection was not listed.
- f. Failure to manage a mercury-containing lamp in a container or package that is structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps in accordance with 310 CMR 30.1034(5)(a). At the time of the Inspection, there were three, spent loose fluorescent bulbs outside the HWAA that were not containerized or dated, and there were loose, spent projector bulbs on a shelf in the Mezzanine at the Facility.
- g. Failure of facility personnel to take part in annual review of initial training, as required by 310 CMR 30.516(1)(d), as referenced by 310 CMR 30.341(1)(a). Annual training was not completed from January 1, 2022 through November 10, 2024. Updated hazardous waste training certificates were received by EPA via email from the Facility on January 3, 2025. The training was completed on November 11, 2024.
- h. Failure to provide revisions of the contingency plan to local police departments, local fire departments, hospitals, local boards of health, the chief executive officer of the community and state and local emergency response teams that may be called upon to provide emergency services, as required by 310 CMR 30.522, as referenced by 310 CMR 30.341(1)(c). At the time of the Inspection, the revised contingency plan

(dated September 2017) had not been submitted to local emergency response agencies.

4. EPA and Respondent agree that settlement of this matter for a civil penalty of twelve thousand and five hundred dollars (\$12,500) is in the public interest.
5. In signing this Agreement, Respondent: (1) admits that Respondent is subject to RCRA and its implementing regulations, including the Massachusetts hazardous waste management regulations authorized by EPA; (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) waives the opportunity for a hearing to contest any issue of fact or law set forth herein; (6) waives its right to appeal the Final Order accompanying this Agreement pursuant to Section 3008(b) of RCRA; and (7) consents to electronic service of the filed ESA.
6. By signing this Agreement, Respondent waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the Final Order accompanying the Agreement.
7. 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 cited in paragraph 3 above, have been corrected, and (2) Respondent will submit proof of payment of the civil penalty with this Agreement.
8. This Agreement resolves Respondent's liability for federal civil penalties for the violations alleged in paragraph 3, above. This Agreement, upon approval and incorporation in the Final Order, concludes this action under Sections 22.13(b) and 22.18(b)(2) and (3) of EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice.").
9. EPA reserves all of its rights to take an enforcement action for any other past, present, or future violations by Respondent of RCRA, any other federal statute or regulation, or this Agreement.
10. The undersigned representative of Respondent certifies that he or she is fully authorized to enter the terms and conditions of this Agreement 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.
11. Each party agrees to bear its own costs and fees, if any.

12. This Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. § 22.31(b), is effective upon filing. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

13. Within thirty (30) calendar days of the effective date of this Agreement, Respondent shall pay the civil penalty of \$ 12,500 using any method provided on the following website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>. Such payment shall identify Respondent by name and include the docket number assigned to this Agreement (RCRA-01-2025-0038).

14. Within 24 hours of payment, Respondent shall email proof of payment (e.g., a copy of the check or a statement of affirmation regarding electronic funds transfer), including Respondent's name, complete address, and docket number to the following:

Wanda Santiago, Regional Hearing Clerk
U.S. EPA, Region 1
r1_hearing_clerk_filings@epa.gov

Mary Jane O'Donnell, Manager
Waste and Chemical Enforcement Section
EPA, Region 1
odonnell.maryjane@epa.gov

U.S. Environmental Protection Agency
Cincinnati Finance Center
CINWD_AcctsReceivable@epa.gov


15. The payment made by Respondent pursuant to this Agreement is a penalty within the meaning of Section 162(f) of the Internal Revenue Code, 26 U.S.C. 162(f), and therefore, Respondent shall not claim the payment as a tax-deductible expenditure for purposes of federal, state, or local law.

16. EPA and Respondent, by entering into this ESA, each give their respective consent to accept digital signatures hereupon. Respondent further consents to accept electronic service of the fully executed ESA, by electronic mail, to the following address: brett.nowlin@smith-nephew.com. Respondent understands that this e-mail address may be made public when the ESA and Certificate of Service are filed and uploaded to a searchable database. EPA has provided Respondent with a copy of the EPA Region 1 Regional Judicial Officer's Authorization of EPA Region 1 Part 22 Electronic Filing System for Electronic Filing and Service of Documents Standing Order, dated June 19, 2020. Electronic signatures shall comply with, and be maintained in accordance with, that Order.

17. This Expedited Settlement Agreement is binding on the parties signing below. Upon signature of the parties and approval by the Regional Judicial Officer, this Expedited Settlement Agreement and Final Order shall be filed with the Regional Hearing Clerk. In accordance with 40 C.F.R. § 22.31(b), the Final Order shall become effective upon filing with the Regional Hearing Clerk.

IT IS SO AGREED,

For Respondent:


Brett Nowlin, Senior Director
Manufacturing Operations
Smith & Nephew

Date: 26-JUN-2025

For the U.S. EPA, Region 1:

JAMES CHOW

Digitally signed by JAMES
CHOW
Date: 2025.06.30 17:09:58
-04'00'

James Chow, Director
Enforcement and Compliance Assurance Division
EPA, Region 1

Dated by electronic signature

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FINAL ORDER

Pursuant to 40 C.F.R. § 22.18(b) and (c) of the Consolidated Rules of Practice found at 40 C.F.R. Part 22, the Expedited Settlement Agreement resolving this matter is incorporated by reference into this Final Order and is hereby ratified. The Respondent, Smith & Nephew, Inc., is ORDERED to comply with all terms of the Expedited Settlement Agreement, which shall become effective on the date it is filed with the EPA Region 1 Regional Hearing Clerk.

IT IS SO ORDERED:

Michael J. Knapp
Regional Judicial Officer
EPA, Region 1

Dated by electronic signature