

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7

2015 AUG 25 PM 3: 10

11201 RENNER BOULEVARD
LENEXA, KANSAS 66219

IN THE MATTER OF:)	Docket No.
)	RCRA-07-2015-0024
)	
Vogel Paint and Wax Company, Inc.)	EXPEDITED SETTLEMENT
EPA ID. No. IAD007276728)	AGREEMENT AND
Respondent.)	FINAL ORDER
)	
)	

EXPEDITED SETTLEMENT AGREEMENT

1. The U.S. Environmental Protection Agency (“EPA”) alleges that Vogel Paint and Wax Company, Inc. (“Respondent”), owner or operator of the facility located at 1020 Albany Place S.E., Orange City, Iowa (the “Facility”), operated as a treatment, storage or disposal facility for failing to comply with generator requirements and failed to comply with universal waste requirements under the Resource Conservation and Recovery Act (“RCRA”).

2. During an inspection of the Facility on September 22, 2011, the following violations of RCRA and its implementing regulations were observed:

- a. Close five satellite accumulation containers holding hazardous waste, except when waste is being added or removed. 40 C.F.R. § 262.34(c)(1)(i), referencing 40 C.F.R. § 265.173(a).
- b. Mark four satellite accumulation containers with the words “Hazardous Waste” or with other words that identify the contents of the containers. 40 C.F.R. § 262.34(c)(1)(ii).
- c. Perform adequate weekly inspections in the primary hazardous waste accumulation area. 40 C.F.R. § 262.34(d)(2), referencing 40 C.F.R. § 265.174.
- d. Include in the contingency plan a description of the signals used to initiate an evacuation. 40 C.F.R. § 262.34(a), referencing 40 C.F.R. § 265.52(f).
- e. Label or clearly mark on universal waste batteries (i.e. each battery) or the container in which the batteries are contained with any one of the following phrases: “Universal Waste-Battery(ies),” “Waste Battery(ies),” or “Used Battery(ies)”. 40 C.F.R. § 273.14(a).
- f. Demonstrate the length of time that universal waste batteries have accumulated from the date that it became a waste or was received. 40 C.F.R. § 273.15(c).

3. EPA and Respondent agree that settlement of this matter for a penalty of Thirteen Thousand Dollars (\$13,000) is in the public interest.

4. EPA is authorized to enter into this Expedited Settlement Agreement (“Agreement”) pursuant to Section 3008 of RCRA and 40 C.F.R. § 22.13(b).
5. 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) waives any right to contest any issue of fact or law set forth herein; and (6) waives its right to appeal the Final Order accompanying this Agreement.
6. 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 violation has been corrected, and (2) Respondent is submitting proof of payment of the civil penalty 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 Consent Agreement and Final Order and to execute and legally bind Respondent to it.
8. The civil penalty of Thirteen Thousand Dollars (\$13,000) should be paid in accordance with EPA Region 7 Penalty Collection Procedures provided to the Respondent.
9. Upon the effective date of this Agreement, payment of the civil penalty shall constitute full settlement of the civil claims alleged herein.
10. EPA reserves all of its rights to take enforcement action for any other past, present, or future violations by Respondent of RCRA, any other federal statute or regulation, or this Agreement.
11. Upon signing and returning this Agreement to EPA, Respondent waives the opportunity for a hearing or appeal pursuant to Section 3008(b) of RCRA.
12. Each party shall bear its own costs and fees, if any.
13. This Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. 22.31(b), is effective upon filing.

FINAL ORDER

Pursuant to the authority of Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g), and according to the terms of this Expedited Settlement Agreement and Final Order, IT IS HEREBY ORDERED THAT:

1. Respondent shall pay a civil penalty of Thirteen Thousand Dollars (\$13,000) within 30 days of its receipt of the letter invitation setting forth the opportunity for expedited settlement. Such payment shall identify Respondent by name and docket number and be paid in accordance

with the Penalty Collection Procedures provided to Respondent.

2. A copy of the certified or cashier's check or other information confirming payment shall simultaneously be sent via certified mail to the following:

Kathy Robinson
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219; and

Kelley Catlin
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219.

3. No portion of the civil penalty or interest paid by Respondent pursuant to the requirements of this CAFO shall be claimed by Respondent as a deduction for federal, state, or local income tax purposes.
4. This Expedited Settlement Agreement and Final Order shall be effective upon the filing of the Final Order by the Regional Hearing Clerk for EPA, Region 7. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

IT IS SO AGREED,

Vogel Paint and Wax Company, Inc.

SCOTT A. HEEMSTRA
Name (print)

DIRECTOR OF MANUFACTURING
Title (print)

Scott A. Heemstra
Signature

Date 8.18.2015

APPROVED BY EPA:

[Signature]
Donald Toensing, Chief
Waste Enforcement and Materials Management Branch
Air and Waste Management Division

Date 8-25-15

Kelley Catlin
Kelley Catlin, Attorney
Office of Regional Counsel

Date 8/25/15

IT IS SO ORDERED:

Karina Borromeo
Karina Borromeo
Regional Judicial Officer

Date 8-25-15

IN THE MATTER OF Vogel Paint and Wax Company, Inc., Respondent
Docket No. RCRA-07-2015-0024

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Order was sent this day in the following manner to the addressees:

Copy by email to Attorney for Complainant:

catlin.kelley@epa.gov

Copy by First Class Mail to:

pray@brownwinick.com

Dated: 8/26/15



Kathy Robinson
Hearing Clerk, Region 7