

FILED

April 25, 2024

10:00AM

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

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 7**

In the Matter of

VT Industries Inc.
1000 Industrial Park
Holstein, Iowa 51025
EPA ID IAD052752599

Respondent.

Docket No. RCRA-07-2024-0059

**EXPEDITED SETTLEMENT
AGREEMENT AND FINAL ORDER**

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 Iowa with notice of the referenced violations of Subtitle C of RCRA as required by Section 3008(a)(2).
- 3) VT Industries, Inc. (“Respondent”) is the owner or operator of the facility located at 1000 Industrial Park, Holstein, Iowa 51025 (“Facility”). The EPA inspected the Facility on March 28, 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. 40 C.F.R. § 261.4(a)(26)(i) requires that solvent-contaminated wipes that are accumulated, stored, and transported must be contained in non-leaking, closed containers that are labeled “Excluded Solvent-Contaminated Wipes.” During the CEI, the RCRA inspector observed 10 excluded solvent-contaminated wipes accumulation containers that were not labeled with the words “Excluded solvent-contaminated wipes,” as required.
 - b. 40 C.F.R. § 262.17(a)(6) referencing 40 C.F.R. § 262.262(b) requires that a large quantity generator that first becomes subject to the provisions after May 30, 2017, or a large quantity generator that is otherwise amending its contingency plan, must submit a quick reference guide of the contingency plan to the local emergency responders. During the inspection, the RCRA inspector asked the facility representative whether VT Industries Inc. had prepared a Quick Reference Guide to be provided to local response agencies. According to the facility representative, VT Industries Inc. has not prepared a Quick Reference Guide, as required.

- c. 40 C.F.R. § 262.17(a)(7)(iv)(B)) requires a large quantity generator to maintain documents and records at the facility including a written job description for each position listed under paragraph (a)(7)(iv)(A) of this section. This description must include the requisite skill, education, or other qualifications, and duties of facility personnel assigned to each position. During the CEI, the RCRA inspector reviewed the written job descriptions for the employees and noted that the job descriptions did not include descriptions of skills, education, or qualifications associated with the job titles, as required.
 - d. 40 C.F.R. § 262.17(a)(7)(iv)(C) requires a large quantity generator to maintain documents and records at the facility including a written description of the type and amount of both introductory and continuing training that will be given to each person filling a position listed under paragraph (a)(7)(iv)(A). During the CEI, the RCRA inspector noted that the job descriptions did not include the type and amount of introductory and continuing training, as required.
 - e. 40 C.F.R. § 273.14(e) requires a small quantity handler of universal waste to label or clearly mark each universal waste lamp or a container or package in which such lamps are contained with one of the following phrases: “Universal Waste - Lamp(s),” or “Waste Lamp(s),” or “Used Lamp(s).” During the CEI, the inspector observed five universal waste lamp accumulation containers in the universal waste storage shed that were not labeled with the words “Universal Waste–Lamps,” or “Waste Lamps,” or “Used Lamps.” During the inspection, the RCRA inspector observed two universal waste lamp accumulation containers in the maintenance shop which contained universal wastes. Both containers were closed and labeled with the words, “universal waste” but not one of the required complete phrases which include, “universal waste lamps” or “waste lamps” or “used lamps,” as required.
 - f. 40 C.F.R. § 273.15(c) requires a small quantity handler of universal waste who accumulates universal waste to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. The cited violations provide six methods that the small quantity handler of universal waste may employ. According to the RCRA CEI report, the two universal waste lamp accumulation containers were not dated or otherwise tracked to demonstrate the accumulation time, as required.
- 4) In determining the amount of the penalty to be assessed, EPA has considered 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 seven thousand five hundred dollars (\$7,500.00) 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 979077
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: (a) admits that Respondent is subject to RCRA and its implementing regulations; (b) admits that EPA has jurisdiction over Respondent and Respondent's conduct as alleged herein, (c) neither admits nor denies the factual allegations contained herein; (d) consents to the assessment of this penalty; (e) waives the opportunity for a hearing to contest any issue of fact or law set forth herein; (f) waives its right to appeal the Final Order accompanying this Agreement pursuant to Section 3008(b) of RCRA; and (g) consents to electronic service of the filed ESA to the following email address: dclausen@vtindustries.com or khuss@vtindustries.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: (a) the alleged violations have been corrected, and (b) 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.

KEVIN HUSS

Name (print)

EHS Manager, VT Industries, Inc.

Title (print)

Kevin Huss

Signature

4/9/24

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 VT Industries, Inc., EPA Docket No. RCRA-07-2024-0059, 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

Kevin Snowden, Enforcement and Compliance Assurance Division
Snowden.kevin@epa.gov

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

Copy via e-mail to Respondent:

Douglas E. Clausen
Registered Agent for VT Industries Inc.
1000 Industrial Park
Holstein, Iowa 51025
Dclausen@vtindustries.com

Copy via e-mail to the State of Iowa:

Ed Tormey, Acting Administrator
Environmental Services Division
Iowa Department of Natural Resources
ed.tormey@dnr.iowa.gov

Mike Sullivan, Section Supervisor
Solid Waste and Contaminated Sites Section
Iowa Department of Natural Resources
michael.sullivan@dnr.iowa.gov

Dated this _____ day of _____, _____.

Signed