

**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY**

IN THE MATTER OF:)	Docket No. RCRA-10-2022-0191
)	
)	
Microchip Technology, Inc.)	
21015 Southeast Stark Street, Gresham, OR)	EXPEDITED SETTLEMENT
EPA ID No. ORD 98716 6204)	AGREEMENT AND
)	FINAL ORDER
Respondent)	
)	
)	

EXPEDITED SETTLEMENT AGREEMENT

1. The U.S. Environmental Protection Agency (“EPA”) is authorized to enter into this Expedited Settlement Agreement (“Agreement”) pursuant to Section 3008 of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6928, and 40 C.F.R. § 22.13(b).
2. By copy of this letter, the EPA is providing the State of Oregon with notice of the referenced violations of Subtitle C of RCRA as required by Section 3008(a)(2), 42 U.S.C. § 6928(a)(2).
3. Microchip Technology, Inc. (“Respondent”) is the owner or operator of the Microchip Technology, Inc. facility at 21015 Southeast Stark Street in Gresham, OR (“Facility”). The EPA alleges that Respondent violated the following requirements of the RCRA and the EPA approved and authorized Oregon hazardous waste management program, based on the findings of an inspection conducted by EPA at the Facility on August 4 and 5, 2021.
 - a. Violation 1: RCRA Section 3005(a) and the regulations 40 C.F.R. §§ 262.34(a)(1)(ii) and 265.1063(b)(3) require that, in lieu of having a RCRA permit, detection instruments used to conduct leak detection monitoring for equipment covered under 40 C.F.R. Part 265 subpart BB must be calibrated before use on each day of its use. At the time of the inspection, for Respondent’s detection instruments used to conduct leak detection monitoring for equipment covered under 40 C.F.R. Part 265 subpart BB, instrument calibration was performed monthly rather than before use on each day of instrument use.
 - b. Violation 2: RCRA Section 3005(a) and the regulations at 40 C.F.R. §§ 262.34(a)(1)(ii) and 265.1063(b)(4) require that, in lieu of having a RCRA permit, detection instruments used to conduct leak detection monitoring for equipment covered under 40 C.F.R. Part 265 subpart BB must utilize calibration gases consisting of zero air (less than 10 ppm of hydrocarbon in the air) and a mixture of methane or n-hexane and air at a concentration of approximately, but less than, 10,000 ppm methane or n-hexane. At the time of the inspection, for Respondent’s detection instruments used to conduct leak detection monitoring for equipment

covered under 40 C.F.R. Part 265 subpart BB, instrument calibration utilized 100 ppm isobutylene gas. Additionally, the annual calibration conducted by the manufacturer used isobutylene gas at a maximum of 5,000 ppm.

- c. Violation 3: RCRA Section 3005(a) and the regulation at 40 C.F.R. § 262.34(a)(3) states that, while hazardous waste is being accumulated in tanks on-site, each tank must be labeled or marked clearly with the words, “Hazardous Waste”. At the time of the inspection, EPA observed that there were three chemical transfer station unit tanks in the “Fab 4-1” area of the Facility in which Respondent accumulated hazardous waste that were not labeled with the words “Hazardous Waste”.
- d. Violation 4: RCRA Section 3005(a) and the regulation at 40 C.F.R. § 262.34(a)(1)(ii) states that hazardous waste generators must comply with the requirements of subpart J of 40 C.F.R. part 265. At the time of the inspection, EPA observed that there were three chemical transfer station unit tanks in the “Fab 4-1” area of the Facility in which Respondent accumulated hazardous waste for which no documentation was presented that established that Respondent was in compliance with the applicable requirements of subpart J of 40 C.F.R. part 265 regarding these tanks and associated equipment.
- e. Violation 5: RCRA Section 3005(a) and the regulation at 40 C.F.R. § 262.34(a)(1)(ii) states that hazardous waste generators must comply with the requirements of subpart BB of 40 C.F.R. part 265. At the time of the inspection, EPA observed that there were three chemical transfer station unit tanks in the “Fab 4-1” area of the Facility in which Respondent accumulated hazardous waste for which no documentation was presented that established that Respondent was in compliance with the applicable requirements of subpart BB of 40 C.F.R. part 265 regarding these tanks and associated equipment.
- f. Violation 6: RCRA Section 3005(a) and the regulation at 40 C.F.R. § 262.34(a)(1)(ii) states that hazardous waste generators must comply with the requirements of subpart CC of 40 C.F.R. part 265. At the time of the inspection, EPA observed that there were three chemical transfer station unit tanks in the “Fab 4-1” area of the Facility in which Respondent accumulated hazardous waste for which no documentation was presented that established that Respondent was in compliance with the applicable requirements of subpart CC of 40 C.F.R. part 265 regarding these tanks and associated equipment.
- g. Violation 7: RCRA Section 3005(a) and the regulations at 40 C.F.R. §§ 262.34(a)(1)(ii) and 265.1085(c)(3)(ii) state that a spring-loaded conservation vent on a tank subject to 40 C.F.R. subpart CC monitoring standards shall be designed to operate with no detectable organic emissions (i.e., a measured difference of less than 500 ppmv) when the device is secured in a closed position. In the event that a difference of 500 ppmv or greater is measured, the regulation at 40 C.F.R. § 265.1085(k) states that the owner or operator shall make first efforts at repair of the defect no later than 5 calendar days after detection, and repair shall be completed as soon as possible but no later than 45 calendar days after detection. The regulation at 40 C.F.R. § 265.1090(b) states that the owner or operator shall maintain a record of the location of the defect, a description of the defect, the date of detection, and corrective action taken to repair the defect. At the time of the inspection, EPA observed a net reading of 747.2 ppmv coming from the spring-loaded conservation vent on the EBR CTS

tank that was subject to 40 C.F.R. subpart CC monitoring standards, which constituted a defect of greater than 500 ppmv. The conservation vent was secured in the closed position. Additionally, Respondent did not provide information that demonstrates that Respondent met the repair timeliness requirements of 40 C.F.R. § 265.1085(k) or the recordkeeping requirements of 40 C.F.R. § 265.1090(b).

- h. Violation 8: RCRA Section 3005(a) and the regulations at 40 C.F.R. §§ 262.34(a)(1)(ii) and 265.1050(e) allow for equipment that contains or contacts hazardous waste with the organic concentration of at least 10 percent by weight for less than 300 hours per calendar year to be excluded from monitoring requirements outlined in 40 C.F.R. § 265.1052 through 40 C.F.R. § 265.1060. The regulation at 40 C.F.R. § 265.1050(e) states that this equipment must be identified as excluded as required by 40 C.F.R. § 265.1064(g)(6). At the time of the inspection, Respondent stated that the equipment contacting hazardous waste during pump-out of the IPA, EBR, and SWP hazardous waste tanks was considered excluded from monitoring under 40 C.F.R. § 265.1050(e), but did not have written identification of this pump-out equipment as excluded for purposes of the 300-hour exemption.
 - i. Violation 9: RCRA Section 3005(a) and the regulations at 40 C.F.R. §§ 262.34(a)(1)(ii) and 40 C.F.R. 265.1050(c) requires that each piece of equipment subject to Subpart BB of 40 C.F.R. Part 265 must “be marked in such a manner that it can be distinguished readily from other pieces of equipment”. At the time of the inspection, EPA inspectors observed that three valves at the “pump-out station” (one for each solvent hazardous waste tank) and three pumps in chemical transfer stations were subject to Subpart BB of 40 C.F.R. Part 265, but were not marked in such a manner that they could be distinguished readily from other pieces of equipment.
 - j. Violation 10: 40 C.F.R. § 273.13(d)(1) states that universal waste lamps at small quantity handler facilities must be contained in closed containers or packages. 40 C.F.R. § 273.14(e) states that container or package in which universal waste lamps are contained must be labeled or marked clearly with one of the following phrases: “Universal Waste - Lamp(s),” or “Waste Lamp(s),” or “Used Lamp(s)”. During the inspection, in the universal waste room at Respondent’s Facility, which was a small quantity handler of universal waste, there was one box of used lamps, a universal waste, that was open and not labeled or marked clearly with one of the following phrases: “Universal Waste - Lamp(s),” or “Waste Lamp(s),” or “Used Lamp(s)”.
4. In determining the amount of penalty to be assessed, EPA has taken into account the factors specified in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3). After considering these factors, EPA has determined and Respondent agrees that an appropriate penalty to settle this action is \$12,500. The attached Penalty Calculation Worksheet is incorporated by reference.
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 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, 42 U.S.C. §

6928(b); and (7) consents to electronic service of the filed ESA.

6. Within 30 days of the effective date of this Agreement, Respondent shall pay a civil penalty of \$12,500 for the RCRA violations identified in this Agreement. Payments under this Agreement may be made by check (mail or overnight delivery), wire transfer, ACH, or online payment. Payment instructions are available at: <http://www2.epa.gov/financial/makepayment>. Payments made by a cashier's check or certified check must be payable to the order of "Treasurer, United States of America" and delivered to the following address:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

Respondent must note on the check the title and docket number of this action.

7. Concurrent with payment, Respondent must serve photocopies of the check, or proof of other payment method, described in Paragraph 6 on the Regional Hearing Clerk and EPA Region 10 at the following addresses:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 10
R10_RHC@epa.gov

Kevin Schanilec
U.S. Environmental Protection Agency
Region 10
Schanilec.kevin@epa.gov

8. The undersigned representative of Respondent certifies that he or she is fully authorized to enter the terms and conditions of this Agreement and Final Order and to execute and legally bind Respondent to it.
9. 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.
10. Each party shall bear its own costs and fees, if any.
11. This Agreement and Final Order shall constitute full settlement of the civil claims alleged herein.
12. No portion of the civil penalty or interest paid by Respondent pursuant to the requirements of this Agreement shall be claimed by Respondent as a deduction for federal, state or local income tax purposes.
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 of the Final Order with the Regional Hearing Clerk for the EPA, Region 10.

Certificate of Service

The undersigned certifies that the original of the attached EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER, In the Matter of: Microchip Technology, Inc., Docket No.: RCRA-10-2022-0191, was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:

The undersigned certifies that a true and correct copy of the document was delivered via electronic mail to:

Kevin Schanilec
U.S. Environmental Protection Agency
Region 10
schanilec.kevin@epa.gov

Microchip Technology, Inc.
21015 Southeast Stark Street
Gresham, Oregon 97231

DATED this _____ day of _____, 2022.

Regional Hearing Clerk
EPA Region 10