



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

SC-5J

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Greg Boelke  
President  
Veit & Company, Inc.  
14000 Veit Place  
Rogers, Minnesota 55374

Re: Veit & Company, Inc., Rogers, Minnesota  
Consent Agreement and Final Order – Docket No. **EPCRA-05-2012-0004**

Dear Mr. Boelke:

Enclosed please find a fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The U.S. EPA has filed the other original CAFO with the Regional Hearing Clerk on Jan 4, 2012.

Please have your client pay the EPCRA civil penalty in the amount of \$40,000 in the manner prescribed in paragraphs 58 and 59, and reference their check with the number BD 2751244E006 and docket number EPCRA-05-2012-0004.

The payment is due on Feb 4, 2012.

Please feel free to contact Ruth McNamara at (312) 353-3193 if you have any questions regarding the enclosed documents. Please direct any legal questions to Deborah Carlson, Associate Regional Counsel, at (312) 353-6121. Thank you for your assistance in resolving this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael E. Hans".

Michael E. Hans, Chief  
Chemical Emergency Preparedness  
and Prevention Section

Enclosure

RECEIVED  
JAN - 4 2012

REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

In the Matter of: )  
) Docket No. )  
)  
)  
Veit & Company, Inc. )  
Rogers, Minnesota, ) Proceeding to Assess a Civil Penalty  
) Under Section 325(c)(1) of the Emergency  
) Planning and Community Right-to-Know  
Respondent. ) Act of 1986  
)  
\_\_\_\_\_ )

**Consent Agreement and Final Order**  
**Preliminary Statement**

1. This is an administrative action commenced and concluded under Section 325(c)(1) of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), 42 U.S.C. § 11045(c)(1), and Sections 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules) as codified at 40 C.F.R. Part 22.

2. The Complainant is, by lawful delegation, the Director of the Superfund Division, United States Environmental Protection Agency (U.S. EPA), Region 5.

3. Respondent is Veit & Company, Inc., a corporation doing business in the State of Minnesota.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

#### **Jurisdiction and Waiver of Right to Hearing**

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

#### **Statutory and Regulatory Background**

9. Section 312(a) of EPCRA, 42 U.S.C. § 11022(a), and its implementing regulations at 40 C.F.R. Part 370 require the owner or operator of a facility, which is required by the Occupational Safety and Health Act (OSHA) to prepare or have available a material safety data sheet (MSDS) for a hazardous chemical, to prepare and submit to the state emergency response commission, community emergency coordinator for the local emergency planning committee, and fire department with jurisdiction over the facility by March 1, 1988, and annually thereafter on March 1, an emergency and hazardous chemical inventory form (Tier I or Tier II as described in 40 C.F.R. Part 370). The form must contain the information required by Section 312(d) of EPCRA, covering all hazardous chemicals present at the facility at any one time during the preceding year in amounts equal to or exceeding 10,000 pounds and all extremely hazardous chemicals present at the facility at any one time in amounts equal to or greater than 500 pounds or the threshold planning quantity designated by U.S. EPA at 40 C.F.R. Part 355, Appendices A and B, whichever is lower.

10. Section 312(a) of EPCRA, 42 U.S.C. § 11022(a), assists state and local committees in planning for emergencies and makes information on chemical presence and hazards available to the public. A delay in reporting could result in harm to human health and the environment.

11. Under 29 C.F.R. § 1910.1200(b)(1), all employers are required to provide information to their employees about the hazardous chemicals to which they are exposed including, but not limited to, MSDS.

12. Under 29 C.F.R. § 1910.1200(d)(3), chemicals listed in 29 C.F.R. Part 1910, Subpart Z are hazardous.

13. Section 325(c)(1) of EPCRA, 42 U.S.C. § 11045(c)(1), authorizes U.S. EPA to assess a civil penalty of up to \$25,000 for each EPCRA Section 312 violation. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 note, and its implementing regulations at 40 C.F.R. Part 19 increased the statutory maximum penalty to \$32,500 per day of violation for violations that occurred after March 15, 2004 through January 12, 2009 and to \$37,500 per day of violation for violations that occurred after January 12, 2009.

#### **Factual Allegations and Alleged Violations**

14. Respondent is a “person” as that term is defined under Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

15. At all times relevant to this CAFO, Respondent was an owner or operator of the facility located at 14000 Veit Place, Rogers, Minnesota (facility).

16. At all times relevant to this CAFO, Respondent was an employer at the facility.

17. Respondent’s facility consists of buildings, equipment, structures, and other stationary items which are located on a single site or on contiguous or adjacent sites, and which are owned or operated by the same person.

18. Respondent's facility is a "facility" as that term is defined under Section 329(4) of EPCRA, 42 U.S.C. § 11049(4).

19. Sulfuric acid, CAS# 7664-93-9 is listed as a toxic and hazardous substance under OSHA regulations at 29 C.F.R. Part 1910, Subpart Z, and 29 C.F.R. § 1910.1000, Table Z-1.

20. Sulfuric acid, CAS# 7664-93-9 is a "hazardous chemical" within the meaning of Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).

21. Sulfuric acid, CAS# 7664-93-9 is an "extremely hazardous substance" according to Section 302(a)(2) of EPCRA, 42 U.S.C. § 11002(a)(2).

22. Sulfuric acid, CAS# 7664-93-9 has a minimum threshold level of 500 pounds, as provided in 40 C.F.R. Part 370.

23. Number 2 diesel fuel, CAS# 68476-30 is a flammable liquid. Exposure to high vapor concentrations can cause headaches, dizziness, drowsiness, and nausea and may lead to unconsciousness. Prolonged or repeated contact can cause skin irritation and or dermatitis.

24. Number 2 diesel fuel, CAS# 68476-30-2 is a "hazardous chemical" within the meaning of Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).

25. Number 2 diesel fuel, CAS# 68476-30-2 has a minimum threshold level of 10,000 pounds, as provided in 40 C.F.R. Part 370.

26. Lead free gasoline, CAS# 8006-61-9 is a flammable liquid. Exposure to high vapor concentrations can cause headaches, dizziness, drowsiness, and nausea and may lead to unconsciousness. Prolonged or repeated contact can cause skin irritation and or dermatitis.

27. Lead free gasoline, CAS# 8006-61-9 is a "hazardous chemical" within the meaning of Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).

28. Lead free gasoline, CAS# 8006-61-9 has a minimum threshold level of 10,000 pounds, as provided in 40 C.F.R. Part 370.

29. Black Diamond Grit Blasting Abrasive CAS# 14808-60-7 is an amorphous glass-like compound that may cause mechanical irritation to eyes and skin. Dust can cause mucous membrane irritation. High exposure to dust can cause pneumoconiosis. This material may also cause shortness of breath, coughing and impaired lung function. Silica a major component is a known human carcinogen.

30. Black Diamond Grit Blasting Abrasive CAS# 14808-60-7 is a “hazardous chemical” within the meaning of Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).

31. Black Diamond Grit Blasting Abrasive CAS# 14808-60-7 has a minimum threshold level of 10,000 pounds, as provided in 40 C.F.R. Part 370.

32. CORVE 8738 is an unsaturated polyester resin composed of 28.9% styrene. It is a flammable liquid that can cause severe irritation, redness, tearing and blurred vision. It may cause moderate irritation, de-fatting, and dermatitis in the skin. Excessive inhalation of vapors can cause nasal irritation, dizziness, weakness, fatigue, nausea, headache, possible unconsciousness and even asphyxiation. Over exposure may cause central nervous system effects, mild effects of color vision, effects on hearing, and respiratory tract damage. Styrene has been identified as a possible carcinogen.

33. CORVE 8738 Vinyl Ester Resin CAS# 100-42-5 is a “hazardous chemical” within the meaning of Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).

34. CORVE 8738 Vinyl Ester Resin CAS# 100-42-5 has a minimum threshold level of 10,000 pounds, as provided in 40 C.F.R. Part 370.

35. CORVE 8190 is an unsaturated polyester resin composed of 38.4% styrene. It is a flammable liquid that can cause severe irritation, redness, tearing and blurred vision. It may cause moderate irritation, de-fatting, and dermatitis in the skin. Excessive inhalation of vapors can cause nasal irritation, dizziness, weakness, fatigue, nausea, headache, possible unconsciousness and even asphyxiation. Over exposure may cause central nervous system effects, mild effects of color vision, effects on hearing, and respiratory tract damage. Styrene has been identified as a possible carcinogen.

36. CORVE 8190 Vinyl Ester Resin CAS# 100-42-5 is a “hazardous chemical” within the meaning of Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).

37. CORVE 8190 Vinyl Ester Resin CAS# 100-42-5 has a minimum threshold level of 10,000 pounds, as provided in 40 C.F.R. Part 370.

38. COR 78-AT-329 CIPP Resin CAS# 100-42-5 is an unsaturated polyester resin composed of 28.9% styrene. It is a flammable liquid that can cause severe irritation, redness, tearing and blurred vision. It may cause moderate irritation, de-fatting, and dermatitis in the skin. Excessive inhalation of vapors can cause nasal irritation, dizziness, weakness, fatigue, nausea, headache, possible unconsciousness and even asphyxiation. Over exposure may cause central nervous system effects, mild effects of color vision, effects on hearing, and respiratory tract damage. Styrene has been identified as a possible carcinogen.

39. COR 78-AT-329 CIPP Resin CAS# 100-42-5 is a “hazardous chemical” within the meaning of Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).

40. COR 78-AT-329 CIPP Resin CAS# 100-42-5 has a minimum threshold level of 10,000 pounds, as provided in 40 C.F.R. Part 370.

41. During at least one period of time in calendar year 2006, sulfuric acid, No. 2 diesel fuel, lead free gasoline, black diamond grit blasting abrasive, CORVE 8738 Vinyl Ester Resin, CORVE 8190 Vinyl Ester Resin, and COR 78-AT-329 CIPP Resin were each present at the facility in an amount equal to or greater than the minimum threshold level.

42. During at least one period of time in calendar year 2007, sulfuric acid, No. 2 diesel fuel, lead free gasoline, black diamond grit blasting abrasive, CORVE 8738 Vinyl Ester Resin, CORVE 8190 Vinyl Ester Resin, and COR 78-AT-329 CIPP Resin were each present at the facility in an amount equal to or greater than the minimum threshold level.

43. During at least one period of time in calendar year 2008, sulfuric acid, No. 2 diesel fuel, lead free gasoline, black diamond grit blasting abrasive, CORVE 8738 Vinyl Ester Resin, CORVE 8190 Vinyl Ester Resin, and COR 78-AT-329 CIPP Resin were each present at the facility in an amount equal to or greater than the minimum threshold level.

44. OSHA requires Respondent to prepare, or have available, an MSDS for sulfuric acid, No. 2 diesel fuel, lead free gasoline, black diamond grit blasting abrasive, CORVE 8738 Vinyl Ester Resin, CORVE 8190 Vinyl Ester Resin, and COR 78-AT-329 CIPP Resin.

45. Section 312 of EPCRA required Respondent to submit to the SERC and fire department with jurisdiction over the facility on or before March 1, 2007, a completed emergency and hazardous chemical inventory form including sulfuric acid, No. 2 diesel fuel, lead free gasoline, black diamond grit blasting abrasive, CORVE 8738 Vinyl Ester Resin, CORVE 8190 Vinyl Ester Resin, and COR 78-AT-329 CIPP Resin for calendar year 2006.

46. Section 312 of EPCRA required Respondent to submit to the SERC and fire department with jurisdiction over the facility on or before March 1, 2008, a completed emergency and hazardous chemical inventory form including sulfuric acid, No. 2 diesel fuel,



lead free gasoline, black diamond grit blasting abrasive, CORVE 8738 Vinyl Ester Resin, CORVE 8190 Vinyl Ester Resin, and COR 78-AT-329 CIPP Resin for calendar year 2007.

47. Section 312 of EPCRA required Respondent to submit to the SERC and fire department with jurisdiction over the facility on or before March 1, 2009, a completed emergency and hazardous chemical inventory form including sulfuric acid, No. 2 diesel fuel, lead free gasoline, black diamond grit blasting abrasive, CORVE 8738 Vinyl Ester Resin, CORVE 8190 Vinyl Ester Resin, and COR 78-AT-329 CIPP Resin for calendar year 2008.

48. At all times relevant to this Complaint, the Minnesota Department of Homeland Security was the SERC for Minnesota under Section 301(a) of EPCRA, 42 U.S.C. § 11001(a).

49. At all times relevant to this Complaint, the Rogers Minnesota Fire Department was the fire department with jurisdiction over the facility.

50. Respondent submitted to the SERC and fire department a completed Emergency and Hazardous Chemical Inventory Form including sulfuric acid, No. 2 diesel fuel, lead free gasoline, black diamond grit blasting abrasive, CORVE 8738 Vinyl Ester Resin, CORVE 8190 Vinyl Ester Resin, and COR 78-AT-329 CIPP Resin on September 23, 2009, for calendar year 2006.

51. Each day that Respondent failed to submit to the SERC and fire department a completed Emergency and Hazardous Chemical Inventory Form including sulfuric acid, No. 2 diesel fuel, lead free gasoline, black diamond grit blasting abrasive, CORVE 8738 Vinyl Ester Resin, CORVE 8190 Vinyl Ester Resin, and COR 78-AT-329 CIPP Resin by March 1, 2007, for calendar year 2006 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

52. Respondent submitted to the SERC and fire department a completed Emergency and

Hazardous Chemical Inventory Form including sulfuric acid, No. 2 diesel fuel, lead free gasoline, black diamond grit blasting abrasive, CORVE 8738 Vinyl Ester Resin, CORVE 8190 Vinyl Ester Resin, and COR 78-AT-329 CIPP Resin on September 23, 2009, for calendar year 2007.

53. Each day that Respondent failed to submit to the SERC and fire department a completed Emergency and Hazardous Chemical Inventory Form including sulfuric acid, No. 2 diesel fuel, lead free gasoline, black diamond grit blasting abrasive, CORVE 8738 Vinyl Ester Resin, CORVE 8190 Vinyl Ester Resin, and COR 78-AT-329 CIPP Resin by March 1, 2008, for calendar year 2007 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

54. Respondent submitted to the SERC a completed Emergency and Hazardous Chemical Inventory Form including sulfuric acid, No. 2 diesel fuel, lead free gasoline, black diamond grit blasting abrasive, CORVE8738 Vinyl Ester Resin, CORVE8190 Vinyl Ester Resin, and COR78-AT-329 CIPP Resin on September 23, 2009, for calendar year 2008.

55. Each day that Respondent failed to submit to the SERC a completed Emergency and Hazardous Chemical Inventory Form including sulfuric acid, No. 2 diesel fuel, lead free gasoline, black diamond grit blasting abrasive, CORVE 8738 Vinyl Ester Resin, CORVE 8190 Vinyl Ester Resin, and COR 78-AT-329 CIPP Resin by March 1, 2009, for calendar year 2008 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

56. Respondent submitted to the fire department a completed Emergency and Hazardous Chemical Inventory Form including sulfuric acid, No. 2 diesel fuel, lead free gasoline, black diamond grit blasting abrasive, CORVE8738 Vinyl Ester Resin, CORVE8190

Vinyl Ester Resin, and COR78-AT-329 CIPP Resin on September 23, 2009, for calendar year 2008.

57. Each day that Respondent failed to submit to the fire department a completed Emergency and Hazardous Chemical Inventory Form including sulfuric acid, No. 2 diesel fuel, lead free gasoline, black diamond grit blasting abrasive, CORVE 8738 Vinyl Ester Resin, CORVE 8190 Vinyl Ester Resin, and COR 78-AT-329 CIPP Resin by March 1, 2009, for calendar year 2008 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

#### **Civil Penalty**

58. Complainant has determined that an appropriate civil penalty to settle this action is \$40,000. In determining the penalty amount, Complainant considered the nature, circumstances, extent, and gravity of the violations, and with respect to Respondent, its ability to pay, prior history of violations, economic benefit or savings resulting from the violations, and any other matters as justice may require. Complainant also considered U.S. EPA's Enforcement Response Policy for Sections 304, 311 and 312 of the Emergency Planning and Community Right-to-Know Act and Section 103 of the Comprehensive Environmental Response, Compensation and Liability Act, dated September 30, 1999 (EPCRA/CERCLA Enforcement Response Policy). Within 30 days after the effective date of this CAFO, Respondent must pay a \$40,000 civil penalty for the EPCRA violations by sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

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

The check must note the following: Veit & Company, Inc., the docket number of this CAFO,  
and the billing document number 2751244E006

59. A transmittal letter, stating Respondent's name, the case title, Respondent's complete address, the case docket number, and the billing document must accompany the payment. Respondent must send a copy of the check and transmittal letter to:

Regional Hearing Clerk, (E-19J)  
U.S. EPA, Region 5  
77 West Jackson Blvd.  
Chicago, IL 60604

Ruth McNamara, (SC-5J)  
Chemical Emergency Preparedness  
and Prevention Section  
U.S. EPA, Region 5  
77 West Jackson Blvd.  
Chicago, IL 60604

Deborah Carlson, (C-14J)  
Office of Regional Counsel  
U.S. EPA, Region 5  
77 West Jackson Blvd.  
Chicago, IL 60604

60. This civil penalty is not deductible for federal tax purposes.

61. If Respondent does not timely pay the civil penalty, U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties, and the United States enforcement expenses for the collection action. The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

62. Pursuant to 31 C.F.R. §901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date the payment was due at a rate established pursuant to 31 U.S.C. § 3717. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, U.S. EPA will assess a 6 percent per year penalty on any principal amount 90 days past due.

### **General Provisions**

63. This CAFO only resolves Respondent's liability for federal civil penalties for the violations and facts alleged in the CAFO.

64. This CAFO does not affect the rights of U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

65. Respondent certifies that it is complying with Section 312 of EPCRA, 42 U.S.C. § 11022.

66. This CAFO does not affect Respondent's responsibility to comply with EPCRA and CERCLA and other applicable federal, state, and local laws and regulations.

67. This CAFO is a "final order" for purposes of U.S. EPA's EPCRA/CERCLA Enforcement Response Policy.

68. The terms of this CAFO bind Respondent and its successors and assigns.

69. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

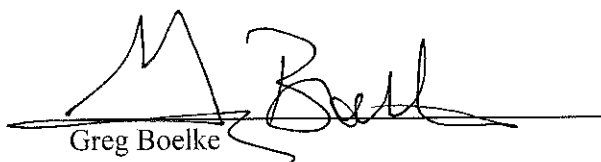
70. Each party agrees to bear its own costs and attorney's fees in this action.

71. This CAFO constitutes the entire agreement between the parties.

**In the Matter of: Veit & Company, Inc.**  
**Docket No. EPCRA-05-2012-0004**


**Veit & Company, Inc., Respondent**

12/14/11  
Date

  
Greg Boelke  
President  
Veit & Company, Inc.

**U.S. Environmental Protection Agency, Complainant**

12-15-11  
Date

  
Richard C. Karl  
Director  
Superfund Division  
U.S. Environmental Protection Agency  
Region 5

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JAN - 4 2012


REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY

**In the Matter of: Veit & Company, Inc.**  
**Docket No. EPCRA-05-2012-0004**

**Final Order**

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

12-16-11  
Date

  
\_\_\_\_\_  
Susan Hedman  
Regional Administrator  
U.S. Environmental Protection Agency  
Region 5

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JAN - 4 2012

REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY

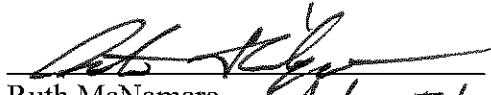
**In the Matter of: Veit & Company, Inc.**  
**Docket No. EPCRA-05-2012-0004**

**Certificate of Service**

I, Ruth McNamara, certify that I filed the original and a copy of the Consent Agreement and Final Order (CAFO) with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 5, delivered a copy of the CAFO by intra-office mail to the Regional Judicial Officer, U.S. Environmental Protection Agency, Region 5, and mailed the second original CAFO by first-class, postage prepaid, certified mail, return receipt requested, to Respondent by placing it in the custody of the United States Postal Service addressed as follows:

Greg Boelke  
President  
Veit & Company, Inc.  
14000 Veit Place  
Rogers, Minnesota 55374

on the 4<sup>th</sup> day of January, 2012

  
~~Ruth McNamara~~ Anton Filtyayev  
U.S. Environmental Protection Agency  
Region 5