

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 3
Philadelphia, Pennsylvania 19103**

FILED

Jan 22, 2025

10:04 am

**U.S. EPA REGION 3
HEARING CLERK**

In the Matter of:	:
	:
Vorteq Coil Finishers, LLC	:
2233 26th Street SW	:
Allentown, Pennsylvania 18103	:
Respondent.	:
	:
	:

U.S. EPA Docket No. RCRA-03-2025-0044

**Proceeding under Sections 3008 (a) and (g) of the
Resource Conservation and Recovery Act (RCRA),
as amended, 42 U.S.C. §§ 6928(a) and (g)**

CONSENT AGREEMENT

PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region 3 ("Complainant") and Vorteq Coil Finishers, LLC ("Respondent") (collectively the "Parties"), pursuant to Section 3008(a) and (g) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6928(a) and (g), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22. . Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g), authorizes the Administrator of the U.S. Environmental Protection Agency to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated this authority to the Regional Administrator who, in turn, has delegated the authority to enter into agreements concerning administrative penalties to the Complainant. This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the "Consent Agreement and Final Order") resolve Complainant's civil penalty claims against Respondent under Subtitle C of RCRA, 42 U.S.C. §§ 6921- 6939g (or the "Act") for the violations alleged herein.
2. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

JURISDICTION

3. The U.S. Environmental Protection Agency ("EPA") has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.

4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(4).
5. In accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), and by letter dated February 7, 2024, the EPA notified the Pennsylvania Department of Environmental Protection (“PA DEP”) of the EPA’s intent to commence this administrative action against Respondent in response to violations of RCRA Subtitle C that are alleged herein.

GENERAL PROVISIONS

6. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order.
7. Except as provided in Paragraph 6, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.
8. Respondent agrees not to contest the jurisdiction of the EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this Consent Agreement and Final Order.
9. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in **this Consent Agreement and Final Order** and waives its right to appeal the accompanying Final Order.
10. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.
11. Respondent shall bear its own costs and attorney’s fees in connection with this proceeding.
12. By signing this Consent Agreement, Respondent waives any rights or defenses that the 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 Consent Agreement.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

13. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.

14. Effective January 30, 1986, and as revised November 27, 2000, March 22, 2004, and June 29, 2009, the EPA authorized the Commonwealth of Pennsylvania to administer its Hazardous Waste management program in lieu of the federal program, including certain provisions implementing the Hazardous and Solid Waste Amendments enacted on November 8, 1984 (Pub. Law No. 98-616), which amended Subtitle C of RCRA. The authorized provisions of the Pennsylvania Hazardous Waste Regulations (“PaHWR”) codified at 25 Pa. Code Chapters 260a – 266a, 266b, and 268a – 270a, thereby became requirements of Subtitle C of RCRA and enforceable by the EPA pursuant to Section 32008(a) of RCRA, 42 U.S.C. § 6928(a). See 51 Fed. Reg. 1791 (January 15, 1986), 65 Fed. Reg. 57734 (September 26, 2000), 69 Fed. Reg. 2674 (January 20, 2004), and 74 Fed. Reg. 19453 (April 29, 2009).
15. The Respondent is a corporation organized under the laws of Delaware.
16. The Respondent is a “person” as that term is defined in Section 1004(15) of RCRA, 42 U.S.C. Section 6903(15), and 25 Pa. Code § 260a.10, and is subject to the assessment of civil penalties for the violations alleged herein.
17. The Respondent is and, at all times relevant to the violations alleged herein, was the owner and operator of a facility located at 2233 26th Street SW, Allentown, Pennsylvania 18103 (hereinafter “the Facility”), as those terms are defined in 40 C.F.R. § 260.10, as incorporated by reference in 25 Pa. Code § 260a.1, and/or as defined in 25 Pa. Code § 260a.10.
18. Since at least 1980, the Respondent has generated “hazardous waste,” as that term is defined in 40 C.F.R. § 261.3. The Respondent initially notified as a Large Quantity Generator on 08/15/1980 and reports as a Large Quantity Generator (“LQG”) of hazardous waste, with EPA ID # PAD056602923.
19. At all times relevant to the violations alleged herein, including at least from August 15, 1980 to May 24, 2023, Respondent is, and has been, a “generator” of “solid waste” and “hazardous waste” and has engaged in the temporary “storage” in “containers” at the Facility of D007 hazardous waste, as those terms are defined in 25 Pa. Code §§ 260a.10, and 40 C.F.R. § 260.10, as incorporated by reference in 25 Pa. Code § 260a.1.
20. The Facility referred to in Paragraph 17, above, including all of its associated equipment and structures, is a coil coater of cold rolled steel, galvanized steel and aluminum, which is used in the production of street signs, downspouts and metal roofs.
21. On May 24, 2023, representatives of the EPA conducted a RCRA Compliance Evaluation Inspection (“Inspection”) at the Facility.

22. On June 7, 2024 and November 13, 2024, the Respondent provided supplemental information to the EPA.
23. At the time of the May 24, 2023 Inspection, hazardous wastes generated by the Respondent, identified in Paragraphs 24 -28 below, were in storage in containers at the Facility.
24. The Respondent generates waste paint solids as hazardous waste, under hazardous waste codes D001, D007, D035, F003 and F005.
25. The Respondent generates waste solvent which is mixed with waste solids and then placed in 55-gallon containers. The filled containers are then placed in temporary storage before being removed from the Facility. The temporarily stored waste solvent is characterized as hazardous waste under hazardous waste codes D001, D007, D035, F003 and F005, which includes waste chrome and methyl ethyl ketone (MEK).
26. The Respondent generates wastewater treatment sludge (filter cake) with hazardous waste code D007 for waste chrome.
27. The Respondent generates spent aerosol cans, characterized as hazardous waste under hazardous waste code D001, which are placed in 55-gallon containers along with other waste solids.
28. The Respondent generates universal waste from spent fluorescent lamps and mercury-containing equipment such as light ballasts, which are collected in rectangular boxes and stored in a locked room that once had been an office prior to being taken off-site to be recycled.
29. Based on the information provided by the Respondent, the EPA concludes that the Respondent has violated certain requirements and provisions of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, certain federally authorized PaHWR requirements, and certain applicable federal hazardous waste regulations.

Count 1

Operation of a Hazardous Waste Storage Facility without a Permit or Interim Status

30. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
31. 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b) and (c), and Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), require, with certain exceptions not relevant herein, that no person who owns or operates a facility for the treatment, storage or disposal of hazardous waste may do so without first obtaining a

permit or qualifying for interim status for the facility.

32. At all times relevant to the violations alleged herein, Respondent did not possess, nor did Respondent ever possess, a) a permit for the Facility, pursuant to 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b) and (c), nor b) interim status for the Facility, pursuant to 25 Pa. Code § 265a.1, which incorporates by reference 40 C.F.R. § 265.1(b), and, therefore, was not authorized to store hazardous waste at the Facility in accordance with the applicable regulations.
33. Pursuant to 40 C.F.R. § 262.34(a)¹, which 25 Pa. Code § 262a.10 incorporates by reference, “a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that” the generator meets requirements listed in 40 C.F.R. § 262.34.
34. For the following reasons, Respondent failed to meet the following permit exemption conditions in 40 C.F.R. § 262.34 and was therefore accumulating hazardous waste on site in violation of 40 C.F.R. § 270.1(b), which 25 Pa. Code § 270a.1 incorporates by reference:
 - a. Failure to Properly Label and/or Date Containers of Hazardous Waste
 - i. 25 Pa. Code § 262.10a, which incorporates 40 C.F.R. § 262.34(a)(2) by reference, provides that a generator of hazardous waste must clearly mark the date upon which each period of accumulation begins on each container. During the May 24, 2023 Inspection, the following observations were made:
 1. At the time of the May 24, 2023 Inspection, in the Paint Mixing Room, one (1) 55-gallon container was observed to be completely filled with hazardous waste paint-contaminated material and marked with the words, “Hazardous Waste Buckets, Wood, etc.”. Facility personnel could not determine how long the container had been full, and the container was not marked with an accumulation start date.
 2. At the time of the May 24, 2023 Inspection, in the less than 90-

¹ When the EPA last authorized the PaHWR on June 29, 2009, the EPA approved Pennsylvania’s incorporation by reference of the federal regulations which were in effect as of October 12, 2005, including, among other things, incorporation of 40 C.F.R. § 262.34 (Accumulation Time, which lists the requirements for the generator permit exemption). As a result, 40 C.F.R. § 262.34 (2005) is the current federally enforceable version of that RCRA regulation in Pennsylvania. On November 28, 2016, the EPA re-codified the generator permit exemption, effective on May 30, 2017. The federal requirements previously found in 40 C.F.R. § 262.34 are now re-codified at 40 C.F.R. § 262.15 – 262.17. The Code of Federal Regulation citations used herein are to the 2005 Federal regulations.

day hazardous waste accumulation area ("HWAA"), 24 of the 56 containers accumulated were not marked with an accumulation start date.

- ii. 25 Pa. Code § 262.10a, which incorporates 40 C.F.R. § 262.34(a)(3) by reference, provides that, while being accumulated on-site, each container and tank must be labeled or marked clearly and be visible for inspection.
 - 1. At the time of the May 24, 2023 Inspection, in the less than 90-day HWAA, 24 of the 56 containers accumulated were not marked or labeled with the words, "Hazardous Waste".

b. Failure to Properly Operate the Facility

- i. Pursuant to 25 Pa. Code § 262.10a, which incorporates 40 C.F.R. § 262.34(a)(1)(i) by reference, and, by further reference, the Facility Maintenance and Operation requirements of 40 C.F.R § 265.31, a generator of hazardous waste must maintain and operate its facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil or surface water which could threaten human health or the environment.
- ii. At the time of the May 24, 2023 Inspection, at the northern end of the production building, in the wastewater treatment unit area, the inspectors observed approximately 5 gallons of wastewater treatment sludge/filter cake material that is shipped offsite by the Facility under hazardous waste manifest as a D007 characteristic hazardous waste for chromium, on the floor and approximately 1 gallon of the material on the ledge of the recessed area for the open 20-yard roll off container. Respondent immediately cleaned up the material during the inspection.

c. Failure to Designate a Primary Emergency Coordinator in the Facility's Contingency Plan

- i. 25 Pa. Code § 262.10a, which incorporates 40 C.F.R. § 262.34(a)(1)(i) by reference, and, by further reference, the Contingency Plan requirements of 40 C.F.R. § 265.52(d), provides that, where more than one person is listed as qualified to act as emergency coordinator one must be named as the primary emergency coordinator.
- ii. At the time of the May 24, 2023 Inspection, during a review of the Facility's "Preparedness, Prevention, and Contingency Plan," dated

“March 2023,” seven individuals were observed to be listed as “Principal Facility Contacts.” The list included each representative’s title, office and home telephone numbers. None of the representatives were designated as an “Emergency Coordinator,” nor were any of the names listed designated as the “Primary Emergency Coordinator.”

d. Failure to Keep a Container of Hazardous Waste Closed, Except When It Is Necessary to Add or Remove Waste

- i. 25 Pa. Code § 262.10a, which incorporates 40 C.F.R. § 262.34(a)(1)(i) by reference, and, by further reference, the Container Management requirements of 40 C.F.R. § 265.173 (a), provides that a container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.
- ii. At the time of the May 24, 2023 Inspection, at the northern end of the production building, in the wastewater treatment unit area, the inspectors observed an open plastic-lined 20-yard roll off container filled with wastewater treatment sludge/filter cake material that is shipped offsite by the Facility under hazardous waste manifest as a D007 characteristic hazardous waste for chromium. Waste was not being added or removed from the container at the time of the inspection.

- 35. At the time of the Inspection, Respondent violated 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(c), by operating as a hazardous storage facility without interim status or a permit to treat, store, and/or dispose of hazardous waste.
- 36. In failing to comply with 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b) and (c), and Section 3005(a) of RCRA, 42 U.S.C. § 6925(b), the Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

Count 2

Failure to Make a Waste Determination

- 37. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
- 38. 25 Pa. Code § 262.10a, which incorporates 40 C.F.R. § 262.11 by reference, provides that a person who generates a solid waste, as defined in 40 C.F.R. § 261.2, must determine if that waste is a hazardous waste.

- a. At the time of the May 24, 2023 Inspection, at the northern end of the production building, in the wastewater treatment unit area, the inspectors observed an open plastic 5-gallon container approximately half-filled with a brownish liquid. At the time of the Inspection, Facility personnel could not identify the liquid or its point of generation.
39. At the time of the Inspection, the Respondent violated 25 Pa. Code § 262.10a, which incorporates by reference 40 C.F.R. § 262.11, by failing to determine whether a waste was a hazardous waste.
40. In failing to comply with 25 Pa. Code § 262.10a, which incorporates by reference 40 C.F.R. § 262.11, the Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

Count 3
Failure to Properly Operate the Facility

41. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
42. 25 Pa. Code § 264a.1, which incorporates 40 C.F.R. § 264.31 by reference, provides that facilities must be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.
- a. At the time of the May 24, 2023 Inspection, at the northern end of the production building, in the wastewater treatment unit area, the inspectors observed approximately 5 gallons of wastewater treatment sludge/filter cake material, that is shipped offsite by the Facility under hazardous waste manifest as a D007 characteristic hazardous waste for chromium, on the floor and approximately 1 gallon of the material on the ledge of the recessed area for the open 20-yard roll off container. Respondent immediately cleaned up the material during the inspection.
43. At the time of the Inspection, the Respondent violated 25 Pa. Code § 264a.1, which incorporates 40 C.F.R. § 264.31, by allowing uncontained wastewater treatment sludge/filter cake to accumulate directly on the floor.
44. In failing to comply with the requirements of 25 Pa. Code § 264a.1, which incorporates 40 C.F.R. § 264.31 by reference, the Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

Count 4

Failure to Keep a Container of Hazardous Waste Closed, Except When It Is Necessary to Add or Remove Waste

45. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
46. 25 Pa. Code § 264a.1, which incorporates 40 C.F.R. § 264.173 (a) by reference, provides that a container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.
 - a. At the time of the May 24, 2023 Inspection, at the northern end of the production building, in the wastewater treatment unit area, the inspectors observed an open plastic-lined 20-yard roll off container filled with wastewater treatment sludge/filter cake material that is shipped offsite by the Facility under hazardous waste manifest as a D007 characteristic hazardous waste for chromium. Waste was not being added or removed from the container at the time of the inspection.
47. At the time of the Inspection, the Respondent violated 25 Pa. Code § 264a.1, which incorporates 40 C.F.R. § 264.173(a), by failing to keep containers holding hazardous waste closed during storage, except when necessary to add or remove waste.
48. In failing to comply with the requirements of 25 Pa. Code § 264a.1, which incorporates 40 C.F.R. § 264.173 (a) by reference, the Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

Count 5

Failure to Maintain Required Aisle Space

49. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
50. 25 Pa. Code § 264a.1, which incorporates 40 C.F.R. § 264.35 by reference, provides that the owner or operator of a facility must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless it can be demonstrated to the Regional Administrator that aisle space is not needed for any of these purposes.
 - a. At the time of the May 24, 2023 Inspection, the inspectors had a difficult time inspecting the chemical and waste storage area, where hazardous waste drums

are located, due to the number and configuration of the drums in the area, resulting in a lack of aisle space.

51. At the time of the Inspection, the Respondent violated 25 Pa. Code § 264a.1, which incorporates 40 C.F.R. § 264.35, by failing to maintain adequate aisle space to allow unobstructed movement.
52. In failing to comply with the requirements of 25 Pa. Code § 264a.1, which incorporates 40 C.F.R. § 264.35 by reference, the Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

Count 6

Failure to Conduct Weekly Inspections of Hazardous Waste Central Accumulation Areas

53. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
54. 25 Pa. Code § 264.1, which incorporates 40 C.F.R. § 264.174 by reference, provides that the owner or operator of the facility must inspect areas where containers are stored, at least weekly, looking for leaks and for deterioration caused by corrosion or other factors.
 - a. During a review of the Facility's hazardous waste accumulation area ("HWAA") weekly inspection records, 71 weeks/missing logs were observed.
 - b. At the time of the May 24, 2023 Inspection, a 20-yard roll off container, located in a less than 90-day HWAA, was used to accumulate hazardous waste wastewater treatment sludge/filter cake. The container had a designated checklist on the weekly inspection logs. The number of instances of this portion of the log not being completed totaled 33 weeks for the years 2020 through 2022, for a total of 33 weeks/missing logs.
 - c. On November 13, 2024, the Respondent provided three additional log sheets for weekly inspections that had been conducted, which reduced the total number of missed weekly inspections from 104 to 101.
55. The time periods for the missed weekly inspections are as follows:

Table 1. Time periods for missing weekly inspections in the Facility's Less Than 90-Day Larger HWAA:

Gap	2020	Gap	2021	Gap	2022/2023
(wks)	Dates	(wks)	Dates	(wks)	Dates
1	03/02/20 – 03/16/20	2	01/03/21 – 01/19/21	1	01/24/22 – 02/07/22
1	03/19/20 – 03/30/20	1	02/01/21 – 02/15/21	1	07/18/22 – 08/01/22
1	03/30/20 – 04/13/20	1	02/15/21 – 03/01/21	2	08/01/22 – 08/22/22

2	05/11/20 – 06/01/20	2	04/05/21 – 04/26/21	4	08/22/22 – 09/26/22
1	06/08/20 – 06/22/20	1	05/03/21 – 05/17/21	2	09/26/22 – 10/17/22
1	06/22/20 – 07/06/20	2	06/21/21 – 07/12/21	2	10/17/22 – 11/07/22
2	07/06/20 – 07/27/20	1	07/19/21 – 08/02/21	3	11/07/22 – 12/05/22
2	07/27/20 – 08/18/20	2	09/20/21 – 10/11/21	3	01/01/23 – 01/23/23
2	08/24/20 – 09/14/20	2	10/25/21 – 12/06/21	4	02/06/23 – 03/13/23
2	09/14/20 – 10/05/20	2	12/13/21 – 01/01/22	1	03/13/23 – 03/27/23
2	10/05/20 – 10/26/20			7	03/27/23 – 05/24/23
1	11/09/20 – 11/23/20				
1	11/23/20 – 12/07/20				
3	12/07/20 – 01/02/21				
22		16		30	Total = 68 weeks

Table 2. Weeks for missing weekly inspections in the Facility's Roll-Off Container HWAA:

1	01/11/2020	1	03/15/2021	1	01/10/2022
1	02/10/2020	1	03/22/2021	1	02/07/2022
1	03/16/2020	1	03/29/2021	1	02/14/2022
1	07/27/2020	1	04/26/2021	1	03/07/2022
1	09/14/2020	1	06/07/2021	1	03/28/2022
1	10/26/2020	1	06/21/2021	1	04/04/2022
1	11/02/2020	1	07/19/2021	1	04/11/2022
1	11/23/2020	1	09/20/2021	1	04/18/2022
				1	04/25/2022
				1	05/02/2022
				1	05/09/2022
				1	05/16/2022
				1	05/29/2022
				1	06/06/2022
				1	06/20/2022
				1	07/05/2022
				1	07/10/2022
8		8		17	Smaller HWAA Total Weeks: 33

56. For each of the weeks detailed in Tables 1 and 2, Respondent violated 25 Pa. Code § 264a.1, which incorporates 40 C.F.R. § 264.35, by failing to conduct a weekly inspection.

57. In failing to comply with the requirements of 25 Pa. Code § 264.1a, which incorporates 40 C.F.R. § 264.174 by reference, the Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

Count 7

Failure to Designate a Primary Emergency Coordinator in the Facility's Contingency Plan

58. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
59. 25 Pa. Code § 264.1a, which incorporates 40 C.F.R. § 264.52(d) by reference, provides that an owner or operator of a facility must name a primary emergency coordinator when more than one person is listed in the Contingency Plan.
60. At the time of the May 24, 2023 Inspection, during a review of the Facility's "Preparedness, Prevention, and Contingency Plan," dated "March 2023," seven individuals were observed to be listed as "Principal Facility Contacts." The list included each representative's title, office and home telephone numbers. None of the representatives were designated as an "Emergency Coordinator," nor were any of the names listed designated as the "Primary Emergency Coordinator."
61. At the time of the Inspection, the Respondent violated 25 Pa. Code § 264a.1, which incorporates 40 C.F.R. § 264.52(d), by failing to designate a primary emergency coordinator in the Facility's Contingency Plan.
62. In failing to comply with 25 Pa. Code § 264.1a, which incorporates 40 C.F.R. § 264.52(d) by reference, the Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

Count 8

Failure to Properly Store Universal Waste Lamps

63. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
64. 25 Pa. Code § 266b.1, which incorporates 40 C.F.R. § 273.13(d)(1) by reference, provides that a small quantity handler of universal waste must contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and

must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.

65. At the time of the May 24, 2023 Inspection, in a locked room that had once been an office, the inspectors observed a large number of fluorescent and metal halide lamps that the Facility indicated were spent. There was a total quantity of approximately 200 spent fluorescent lamps of varying size, which included the spent lamps in the open rectangular boxes on the floor (approximately 8 or 9 boxes) and the spent lamps in the two open cylindrical fiber containers.
66. At the time of the Inspection, the Respondent violated 25 Pa. Code § 266b.1, which incorporates 40 C.F.R. § 273.13(d)(1), by failing to contain lamps in closed containers.
67. In failing to comply with 25 Pa. Code § 266b.1, which incorporates 40 C.F.R. § 273.13(d)(1) by reference, the Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

Count 9

Failure to Properly Label or Mark Each Lamp or a Container or Package in Which Such Lamps Are Contained

68. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
69. 25 Pa. Code § 266b.1, which incorporates 40 C.F.R. § 273.14(e) by reference, provides that a small quantity handler of universal waste must label or mark the universal waste to identify the type of universal waste. Universal waste lamps must be labeled or marked clearly with one of the following phrases: "Universal Waste—Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)."
70. At the time of the May 24, 2023 Inspection, in a locked room that had once been an office, the inspectors observed the following containers of waste lamps without required labeling or markings to indicate that they were accumulating spent lamps:
 - a. A large number of fluorescent and metal halide lamps that the Facility indicated were spent. There was a total quantity of approximately 200 spent fluorescent lamps of varying size, which included the spent lamps in open rectangular boxes on the floor (approximately 8 or 9 boxes) and the spent lamps in two open cylindrical fiber containers.
 - b. In several smaller open boxes on the floor, approximately 50 metal halide lamps that the Facility indicated were spent.

- c. Two additional cylindrical fiber containers that were closed at the time of the Inspection. Within each of these two containers were an additional 100 spent fluorescent lamps.
71. At the time of the Inspection, the Respondent violated 25 Pa. Code § 266b.1, which incorporates 40 C.F.R. § 273.14(e), by failing to properly label containers of universal waste lamps.
72. In failing to comply with the requirements of 25 Pa. Code § 266b.1, which incorporates 40 C.F.R. § 273.14(e) by reference, the Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

Count 10

Failure to Demonstrate the Length of Time that the Universal Waste has been Accumulated for the Date it Becomes a Waste or is Received

73. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
74. 25 Pa. Code § 266b.1, which incorporates 40 C.F.R. § 273.15(c) by reference, provides that a small quantity handler of universal waste who accumulates universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.
75. At the time of the May 24, 2023 Inspection, in a room that had once been an office, the inspectors observed the following containers of waste lamps for which Respondent was not able to demonstrate the length of time that the waste lamps had been accumulating:
- a. A large number of fluorescent and metal halide lamps that the Facility indicated were spent. There were approximately 200 spent fluorescent lamps of varying size between the open rectangular boxes on the floor (approximately 8 or 9 boxes) and two open cylindrical fiber containers.
 - b. In several smaller open boxes on the floor, the inspectors observed approximately 50 metal halide lamps that the Facility indicated were spent.
 - c. Two additional cylindrical fiber containers that were closed at the time of the inspection. Within each of these two containers were an additional 100 spent fluorescent lamps.
76. At the time of the Inspection, the Respondent violated 25 Pa. Code § 266b.1, which incorporates 40 C.F.R. § 273.15(c), by failing to demonstrate the length of time that universal waste lamps had been accumulated at the Facility.

77. In failing to comply with 25 Pa. Code § 266b.1, which incorporates 40 C.F.R. § 273.15(c) by reference, the Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

CIVIL PENALTY

78. In settlement of the EPA's claims for civil penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of **ONE-HUNDRED SEVENTY-FOUR THOUSAND EIGHT-HUNDRED TWENTY-NINE dollars (\$174,829.00)**, which Respondent shall be liable to pay in accordance with the terms set forth below.
40. The civil penalty is based upon the EPA's consideration of a number of factors, including the penalty criteria ("statutory factors") set forth in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), including the following: the seriousness of the violation and any good faith efforts to comply with the applicable requirements. These factors were applied to the particular facts and circumstances of this case with specific reference to the EPA's October, 1990 RCRA Civil Penalty Policy, as revised in June 2003 and May 2020 ("RCRA Penalty Policy"), which reflect the statutory penalty criteria and factors set forth at Section 3008(a)(3) and (g) of RCRA, 42 U.S.C. §§ 6928(a)(3) and (g), the appropriate Adjustment of Civil Monetary Penalties for Inflation, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA's civil penalty policies to account for inflation.
79. Respondent agrees to pay a civil penalty in the amount of **\$174, 829** ("Assessed Penalty") within thirty (30) days of the Effective Date of this Consent Agreement and Final Order.
80. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.
81. When making a payment, Respondent shall:
- Identify every payment with Respondent's name and the docket number of this Consent Agreement, **U.S. EPA Docket No. RCRA-03-2025-0044**,
 - Concurrently with any payment or within 24 hours of any payment, Respondent shall serve Proof of Payment simultaneously **by email** to the following person(s):

DANIEL T. GALLO

Sr. Assistant Regional Counsel
gallo.dan@epa.gov,

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

and

U.S. EPA Region 3 Regional Hearing Clerk
R3_Hearing_Clerk@epa.gov.

“Proof of Payment” means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to the EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent’s name.

82. Interest, Charges, and Penalties on Late Payments. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay the full amount of the Assessed Penalty per this Consent Agreement, the EPA is authorized to recover, in addition to the amount of the unpaid Assessed Penalty, the following amounts.

a. Interest. Interest begins to accrue from the Effective Date of this Consent Agreement. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. To protect the interests of the United States, the rate of interest is set at the Internal Revenue Service (“IRS”) standard underpayment rate, any lower rate would fail to provide the Respondent adequate incentive for timely payment.

b. Handling Charges. Respondent will be assessed monthly a charge to cover the EPA’s costs of processing and handling overdue debts. If Respondent fails to pay the Assessed Penalty in accordance with this Consent Agreement, the EPA will assess a charge to cover the costs of handling any unpaid amounts for the first thirty (30) day period after the Effective Date. Additional handling charges will be assessed every thirty (30) days, or any portion thereof, until the unpaid portion of the Assessed Penalty as well as any accrued interest, penalties, and other charges are paid in full.

c. Late Payment Penalty. A late payment penalty of six percent (6%) per annum, will be assessed monthly on all debts, including any unpaid portion of the Assessed Penalty,

interest, penalties, and other charges, that remain delinquent more than ninety (90) days. Any such amounts will accrue from the Effective Date.

83. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Consent Agreement, the EPA may take additional actions. Such actions the EPA may take include, but are not limited to, the following.
- a. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14.
 - b. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.
 - c. Suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with the EPA or engaging in programs the EPA sponsors or funds, per 40 C.F.R. § 13.17.
 - d. Refer this matter to the United States Department of Justice for litigation and collection, per 40 C.F.R. § 13.33.
84. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.
85. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Consent Agreement shall not be deductible for purposes of federal taxes.
86. Payment of the civil penalty is due and payable immediately upon receipt by Respondent of a true and correct copy of the fully executed and filed Consent Agreement and Final Order. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed Consent Agreement and Final Order, with a date stamp indicating the date on which the Consent Agreement and Final Order was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed the EPA by Respondent in accordance with 40 C.F.R. § 13.9(a).
87. The Parties consent to service of the Final Order by e-mail at the following valid email addresses: gallo.dan@epa.gov (for Complainant), and KGarber@babstcalland.com (for Vorteq).

88. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, the EPA is required to send to the IRS annually, a completed IRS Form 1098-F (“Fines, Penalties, and Other Amounts”) with respect to any court order or settlement agreement (including administrative settlements), that require a payor to pay an aggregate amount that the EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor’s violation of any law or the investigation or inquiry into the payor’s potential violation of any law, **including** amounts paid for “restitution or remediation of property” or to come “into compliance with a law.” The EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number (“TIN”), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. In order to provide the EPA with sufficient information to enable it to fulfill these obligations, the EPA herein requires, and Respondent herein agrees, that:

- a. The Respondent shall complete an IRS Form W-9 (“Request for Taxpayer Identification Number and Certification”), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
- b. The Respondent shall therein certify that its completed IRS Form W-9 includes Respondent’s correct TIN or that Respondent has applied and is waiting for issuance of a TIN;
- c. The Respondent shall email its completed Form W-9 to the EPA’s Cincinnati Finance Center at henderson.jessica@epa.gov, within 30 days after the Final Order ratifying this Consent Agreement is filed, and the EPA recommends encrypting IRS Form W-9 email correspondence; and
- d. In the event that the Respondent has certified in its completed IRS Form W-9 that it has applied for a TIN and that TIN has not been issued to Respondent within 30 days after the effective date, then Respondent, using the same email address identified in the preceding sub-paragraph, shall further:
 - i. notify the EPA’s Cincinnati Finance Center of this fact, via email, within 30 days after the 30 days after the Effective Date of the Final Order per Paragraph **95**; and
 - ii. provide the EPA’s Cincinnati Finance Center with Respondent’s TIN, via email, within five (5) days of Respondent’s issuance and receipt of the TIN.

GENERAL SETTLEMENT CONDITIONS

89. By signing this Consent Agreement, Respondent acknowledges that this Consent Agreement and Final Order will be available to the public and represents that, to the best of Respondent's knowledge and belief, this Consent Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondent.
90. Respondent certifies that any information or representation it has supplied or made to the EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. The EPA shall have the right to institute further actions to recover appropriate relief if the EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this Consent Agreement and Final Order, **including information about Respondent's ability to pay a penalty**, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that the EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

CERTIFICATION OF COMPLIANCE

91. Respondent certifies to the EPA, upon personal investigation and to the best of its knowledge and belief, that it currently is in compliance with regard to the violations alleged in this Consent Agreement.

OTHER APPLICABLE LAWS

92. Nothing in this Consent Agreement and Final Order shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This Consent Agreement and Final Order does not constitute a waiver, suspension or modification of the requirements of the RCRA, or any regulations promulgated thereunder.

RESERVATION OF RIGHTS

93. This Consent Agreement and Final Order resolves only the EPA's claims for civil penalties for the specific violation[s] alleged against Respondent in this Consent Agreement and Final Order. The EPA reserves the right to commence action against any person,

including Respondent, in response to any condition which the EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. This settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice, 40 C.F.R. § 22.18(c). The EPA reserves any rights and remedies available to it under the RCRA, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this Consent Agreement and Final Order after its effective date. [OPTIONAL: Respondent reserves whatever rights or defenses it may have to defend itself in any such action.]

EXECUTION /PARTIES BOUND

94. This Consent Agreement and Final Order shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents and assigns of Respondent. By providing the signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that the person signing is fully authorized by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and Final Order.

EFFECTIVE DATE

95. The effective date of this Consent Agreement and Final Order ("Effective Date") is the date on which the Final Order, signed by the Regional Administrator of the EPA, Region 3, or the Regional Administrator's designee, the Regional Judicial Officer, is filed along with the Consent Agreement with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

ENTIRE AGREEMENT

96. This Consent Agreement and Final Order constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed in this Consent Agreement and Final Order.

For Respondent: Vorteq Coil Finishers, LLC

Date: January 10, 2005

By: David P. Scott
David P. Scott
Chief Financial Officer

For the Complainant:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement & Compliance Assurance Division of the United States Environmental Protection Agency, Region 3, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or the Regional Administrator's designee, the Regional Judicial Officer, issue the attached Final Order.

By: _____
[Digital Signature and Date]
Karen Melvin
Director
Enforcement and Compliance Assurance Division
U.S. EPA – Region 3
Complainant

Attorney for Complainant:

By: _____
[Digital Signature and Date]
Daniel T. Gallo
Sr. Assistant Regional Counsel
U.S. EPA – Region 3

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 3
Philadelphia, Pennsylvania 19103

FILED

Jan 22, 2025

10:04 am

U.S. EPA REGION 3
HEARING CLERK

In the Matter of:

Vorteq Coil Finishers, LLC
2233 26th Street SW
Allentown, Pennsylvania 18103

Respondent.

:
:
: U.S. EPA Docket No. RCRA-03-2025-0044
:
: Proceeding under Sections 3008 (a) and (g) of
: the Resource Conservation and Recovery Act
: (RCRA), as amended, 42 U.S.C. §§ 6928(a) and
: (g)
:
:
:
:
:
:
:

FINAL ORDER

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region 3, and Respondent, Vorteq Coil Finishers, LLC have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22 (with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based upon the representations of the Parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, the EPA's October 1990 RCRA Civil Penalty Policy, as revised in June 2003 and May 2020 ("RCRA Penalty Policy") which reflects the statutory penalty criteria and factors set forth at Sections 3008(a)(3) and (g) of RCRA, 42 U.S.C. §§ 6982(a)(3) and (g), the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing the EPA's civil penalty policies to account for inflation.

NOW, THEREFORE, PURSUANT TO Section 3008(a) and (g) of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. § 6928(a) and (g), and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of **ONE-HUNDRED SEVENTY-FOUR THOUSAND EIGHT HUNDRED TWENTY-NINE DOLLARS (\$174,829.00)**, in accordance with the payment provisions set forth in the Consent

Agreement and in 40 C.F.R. § 22.31(c), and comply with the terms and conditions of the Consent Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Consent Agreement and does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of RCRA and the regulations promulgated thereunder.

The effective date of the attached Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

By: _____
Joseph J. Lisa
Regional Judicial and Presiding Officer
U.S. EPA Region 3

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 3
Philadelphia, Pennsylvania 19103

In the Matter of:	:
	:
Vorteq Coil Finishers, LLC	:
2233 26 th Street SW	: U.S. EPA Docket No. RCRA-03-2025-0044
Allentown, Pennsylvania 18103	:
	: Proceeding under Sections 3008 (a) and (g) of the
Respondent.	: Resource Conservation and Recovery Act(RCRA),
	: as amended, 42 U.S.C. §§ 6928(a) and (g)
	:

CERTIFICATE OF SERVICE

I certify that the foregoing ***Consent Agreement and Final Order*** was filed with the EPA Region 3 Regional Hearing Clerk on the date that has been electronically stamped on the ***Consent Agreement and Final Order***. I further certify that on the date set forth below, I caused to be served a true and correct copy of the foregoing to each of the following persons, in the manner specified below, at the following addresses:

Copies served via email to:

Chris Campbell
Vorteq Coil Finishers, LLC
Chris.campbell@vorteq.com
2233 26th Street
Allentown, PA 18103

Kevin Garber, Shareholder
Babst Calland, Attorneys at Law
KGarber@babstcalland.com
Two Gateway Center
Pittsburgh, PA 15222

Daniel T. Gallo
Senior Assistant Regional Counsel
U.S. EPA, Region 3
gallo.dan@epa.gov

Eric Greenwood
Senior Enforcement Officer/Inspector
U.S. EPA, Region 3
greenwood.eric@epa.gov

[Digital Signature and Date]
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 3