I certify this to be a true and accurate copy of the official documents as filed in the records of the Ohio Environmental Protection Agency.

By: [illegible] Date: 6-11-13

OHIO E.P.A.
JUN 11 2013
ENTERED DIRECTOR'S JOURNAL

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the matter of: **Vitatoe Industries, Inc.** 100 Chamber Drive Chillicothe, Ohio 45601 **Respondent**	**Expedited Settlement Agreement and Director's Order**

I. JURISDICTION

This Expedited Settlement Agreement and Director's Order ("ESA") is issued to Vitatoe Industries, Inc. ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3734.13 and 3745.01.

II. FINDINGS

1. Respondent is a "person" as defined in ORC §3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(A).

2. Respondent paints plastic and fiberglass parts at the Vitatoe Industries, Inc. facility located at 100 Chamber Drive, Chillicothe, Ross County, Ohio (Facility).

3. Respondent notified Ohio EPA of its hazardous waste activities and was issued generator identification number OHR000027441.

4. At the Facility, Respondent generates "hazardous waste" as that term is defined by ORC §3734.01(J) and OAC rules 3745-50-10(A) and 3745-51-03. Respondent is a large quantity generator of hazardous waste. The hazardous waste generated by Respondent at the Facility includes spent paint thinner (D001, D035, F003 and F005), as described in OAC rule 3745-51-21 and OAC rule 3745-51-31.

5. On August 17, 2012, Ohio EPA conducted a compliance evaluation inspection at the Facility. As a result of this inspection, Ohio EPA determined that Respondent, *inter alia*;

    a. Stored five 55-gallon drums of hazardous waste spent paint thinner (D001, D035, F003 and F005) for greater than ninety days without a hazardous waste installation and operation permit, in violation of ORC §3734.02(E) and (F). Specifically, during the inspection Ohio EPA informed Respondent that two 55-gallon drums of hazardous waste had exceeded ninety days and three other drums were about to exceed ninety days in storage. Respondent did not manifest the three additional hazardous waste drums off-site within the ninety day period; and

    b. Failed to properly manage universal waste spent fluorescent lamps in violation of OAC rule 3745-273-13, OAC rule 3745-273-14 and OAC rule 3745-273-16.

6. By electronic mail on August 27, 2012, Respondent submitted information to Ohio EPA pertaining to the inspection referenced in Finding No. 5. of this ESA. This information included photographs of the proper storage of the spent fluorescent lamps, a manifest documenting shipment of the hazardous waste spent paint thinner, and an inspection checklist for the universal waste spent fluorescent lamps.

7. By letter dated September 5, 2012, Ohio EPA notified Respondent of the violations referenced in Finding No. 5. of this ESA. In the letter, Ohio EPA also acknowledged that on August 23, 2012, Respondent shipped the hazardous waste spent paint thinner (D001, D035, F003 and F005) that had been stored for greater than ninety days to an authorized facility.

8. By electronic mail on September 13, 18, and 25, 2012, Respondent submitted information in response to the violations referenced in Finding No. 5. of this ESA. This information included an inspection form for hazardous waste accumulation areas at the Facility.

9. By letter dated September 26, 2012, Ohio EPA notified Respondent that it had abated the violations discovered during the August 17, 2012, inspection and referenced in Finding No. 5.b. of this ESA.

10. The Director has determined no further action is required of Respondent at this time with regard to the violation referenced in Finding No. 5.a. of this ESA. Furthermore, the documentation referenced in Findings Nos. 6. and 8. of this ESA, demonstrates the hazardous waste spent paint thinner (D001, D035, F003 and F005) that had been stored for greater than ninety days has been shipped off-site to an authorized facility and Respondent intends to continue to

accumulate hazardous waste in the drum accumulation area for ninety days or less. Consequently no additional measures, including closure of the hazardous waste drum accumulation area in accordance with OAC Chapter 3745-55, need to be taken at this time.

11. In consideration of the benefits of prompt compliance to the public, efficiency in Ohio EPA resources, and other factors as justice may require, and upon consideration of the entire record, this ESA is an appropriate mechanism to resolve the noncompliance detailed in these Findings.

III. ORDER

Within sixty (60) days from the date of the Director's letter inviting Respondent to sign this ESA, Respondent shall pay to the Ohio EPA the amount of $2,300.00 in settlement of the Ohio EPA's claim for civil penalties, which may be assessed pursuant to Chapter 3734.13 of the Ohio Revised Code. Payment shall be made by tendering an official check made payable to "Treasurer, State of Ohio" for the full amount, and shall be deposited into the hazardous waste cleanup fund established pursuant to ORC § 3734.28. Payment shall be mailed to the following address: Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying Respondent and the location of the noncompliance detailed in the Findings of this ESA. A photocopy of this check shall be submitted to Supervisor, Processing/Records Management Unit, Ohio EPA, Division of Materials and Waste Management, P.O. Box 1049, Columbus, Ohio 43216-1049.

IV. TERMINATION

Respondent's obligations under this ESA shall terminate upon both Ohio EPA's entry of this ESA in the Ohio EPA Director's journal and Ohio EPA's receipt of the civil penalty payment required by this ESA.

V. RESERVATION OF RIGHTS AND WAIVER

Ohio EPA reserves its right to exercise its lawful authority to require Respondent to perform closure as well as corrective action at the Facility at some time in the future, in accordance with ORC Chapter 3734. or any other applicable law. Respondent reserves its rights to raise any administrative, legal, or equitable claim or defense with respect of any final action of the Director regarding such closure or corrective action. Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived herein.

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in this ESA, Respondent consents to the issuance of this ESA and agrees to comply with

this ESA. Compliance with this ESA shall be a full accord and satisfaction of Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of this ESA and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of this ESA either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if this ESA is appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall comply with this ESA notwithstanding such appeal and intervention unless this ESA is stayed, vacated, or modified.

VI. EFFECTIVE DATE

The effective date of this ESA is the date this ESA is entered into the Ohio EPA Director's journal.

VII. SIGNATORY AUTHORITY

Each undersigned representative or party to this ESA certifies that he or she is fully authorized to enter into this ESA and to legally bind such party to this ESA.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

Scott J. Nally, Director

June 11, 2013
Date

IT IS SO AGREED:

Vitatoe Industries, Inc.

Larry Vitatoe
Signature

5/10/13
Date

Larry Vitatoe
Printed or Typed Name

President
Title