



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

1200 Sixth Avenue, Suite 155
Seattle, WA 98101-3188

ENFORCEMENT &
COMPLIANCE ASSURANCE
DIVISION

EXPEDITED SETTLEMENT AGREEMENT

DOCKET NO: CAA-10-2021-0100
This ESA is issued to: Forrest Paint Company
1011 McKinley Street
Eugene, Oregon

This Expedited Settlement Agreement (ESA) is being entered into by the U.S. Environmental Protection Agency Region 10 (EPA), by its duly delegated official, and by Forrest Paint Company (“Respondent”) pursuant to Section 113(a)(3) and (d) of the Clean Air Act (CAA), 42 U.S.C. § 7413(a)(3) and (d), and by 40 C.F.R. § 22.13(b). On February 13, 2019, EPA obtained the concurrence of the U.S. Department of Justice, pursuant to Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), to pursue this administrative enforcement action.

ALLEGED VIOLATIONS

EPA has determined that Respondent violated the Risk Management Program (RMP) regulations promulgated at 40 C.F.R. Part 68 under Section 112(r) of the Clean Air Act (CAA), as noted on the enclosed Risk Management Plan Inspection Findings and Alleged Violations Summary (“Summary”), which is hereby incorporated by reference.

SETTLEMENT

In consideration of the penalty assessment factors set forth in Section 113(e) of the Act, 42 U.S.C. § 7413(e), and upon consideration of the entire record, the parties enter into the ESA in order to settle the violations described in the enclosed Summary for the total penalty amount of **\$3,840**.

This settlement is subject to the following terms and conditions:

Respondent, by signing below, waives any objections that it may have regarding jurisdiction, neither admits nor denies the specific factual allegations contained herein and in the Summary, and consents to the assessment of the penalty as stated above.

Respondent waives its rights to contest the allegations contained herein or in the Summary, to a hearing afforded by Section 113(d)(2)(A) of the CAA, 42 U.S.C. § 7413(d)(2)(A), and to appeal this ESA. Each party to this action shall bear its own costs and fees, if any.

Respondent also certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that Respondent has corrected the violations listed in the enclosed Summary.

Respondent agrees to submit payment in full of the \$3,840 within 30 days of the filing of a fully executed copy of this ESA with the Regional Hearing Clerk.

Payment instructions are included on the enclosed "Payment Instructions," which is hereby incorporated by reference.

This original ESA must be sent by certified mail to:

Javier Morales, 112(r) Enforcement Coordinator
Enforcement & Compliance Assurance Division
U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 155, Mail Stop: 20-C04
Seattle, Washington 98101-3188

Upon Respondent's submission of the signed original ESA, signature by EPA, filing with the Regional Hearing Clerk, and timely payment of the penalty, EPA will take no further civil penalty action against Respondent for the alleged violations of the CAA referenced in the Summary. EPA does not waive its right to any other enforcement action for any other violations of the CAA or any other statute.

If the signed original ESA is not returned to the EPA Region 10 at the above address by Respondent within 45 days of the date of Respondent's receipt of it (90 days if an extension is granted), the proposed ESA is withdrawn, without prejudice to EPA's ability to file an enforcement action for the violations identified herein and in the Summary.

This ESA is binding on the parties signing below.

This ESA is effective upon filing with the Regional Hearing Clerk.

FOR RESPONDENT:

Signature: Mike DeHaven
Name (print): Mike DeHaven
Title (print): V.P. of Manufacturing
Cost to correct violation(s): 4000.00

Date: 7-12-2021

FOR COMPLAINANT:

EDWARD
KOWALSKI
Digitally signed by EDWARD KOWALSKI
Date: 2021.07.15 15:35:23 -07'00'

Date: _____

Edward J. Kowalski
Director
Enforcement & Compliance Assurance Division

I hereby ratify the ESA and incorporate it herein by reference. It is so ORDERED.

RICHARD
MEDNICK
Digitally signed by RICHARD MEDNICK
Date: 2021.07.16 09:54:00 -07'00'

Date: _____

Richard Mednick
Regional Judicial Officer



U.S. ENVIRONMENTAL PROTECTION AGENCY

Risk Management Program Inspection Findings and Alleged Violations Summary Region 10

REASON FOR INSPECTION: This inspection is for the purpose of determining compliance with Section 112(r)(7) accidental release prevention requirements of the Clean Air Act, as amended 1990. The scope of this inspection may include, but is not limited to: reviewing and obtaining copies of documents and records; interviews and taking of statements; reviewing of chemical storage, handling, processing, and use; taking samples and photographs; and any other inspection activities necessary to determine compliance with the Act.

FACILITY NAME: Forrest Paint Company	<input checked="" type="checkbox"/> PRIVATE # EMPLOYEES 75	<input type="checkbox"/> GOVERNMENTAL/MUNICIPAL POPULATION SERVED: Click here
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FACILITY LOCATION: 1011 McKinley Street, Eugene, Oregon 97402	AUDIT START DATE: 3/17/2020	INSPECTION START TIME: N/A
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MAILING ADDRESS: 1011 McKinley Street, Eugene, Oregon 97402	AUDIT END DATE: 12/15/2020	INSPECTION END TIME: N/A
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RESPONSIBLE OFFICIAL, TITLE, PHONE NUMBER: Marcus Kiser, Safety Coordinator (541) 342-1821	EPA FACILITY ID# 1000 0007 5027
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FACILITY REPRESENTATIVE(S), TITLE(S), PHONE NUMBER(S): Marcus Kiser, Safety Coordinator (541) 342-1821	INSPECTOR NAME(S), TITLE(S), PHONE NUMBER(S) Peter Phillips, SEE Grantee RMP Inspector, 206-553-1775 Javier Morales, RMP Coordinator, 206-553-1255
	INSPECTOR SIGNATURE JAVIER MORALES
	DATE Digitally signed by JAVIER MORALES Date: 2021.04.09 09:23:58 -07'00'

INSPECTION FINDINGS

IS FACILITY SUBJECT TO RMP REGULATION (40 CFR 68)?	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO
DID FACILITY SUBMIT AN RMP AS PROVIDED IN 68.150 TO 68.185?	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO
DATE RMP FILED WITH EPA: 6/21/1999	DATE OF LATEST RMP UPDATE: 9/8/2016	

1) PROCESS/NAICS CODE: 32551 REGULATED SUBSTANCE: Butane	PROGRAM LEVEL: <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input checked="" type="checkbox"/> 3 MAX. QUANTITY IN PROCESS (lbs.): 16,000
2) PROCESS/NAICS CODE: 32551 REGULATED SUBSTANCE: Propane	PROGRAM LEVEL: <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input checked="" type="checkbox"/> 3 MAX. QUANTITY IN PROCESS (lbs.): 21,000

DESCRIPTION OF ALLEGED VIOLATIONS

CAA Section 112(r) and its implementing regulations in 40 C.F.R. Part 68 require an owner or operator of a stationary source that has more than a threshold quantity of a regulated substance (listed in § 68.130) in a process, to develop a Risk Management Plan (RMP) and Risk Management Program.

One EPA representative conducted a remote audit of the Forrest Paint facility on 3/17/2020. Based upon this offsite compliance review the Forrest Paint Company ("Forrest Paint") facility is in violation of the following risk management program elements:

- Process Hazard Analysis (PHA):** The owner or operator shall establish a system to promptly address the team's findings and recommendations; assure that the recommendations are resolved in a timely manner and that the resolution is documented; document what actions are to be taken; complete actions as soon as possible; develop a written schedule of when these actions are to be completed; communicate the actions to operating, maintenance and other employees whose work assignments are in the process and who may be affected by the recommendations or actions as required by 40 C.F.R. § 68.67(e). Forrest Paint's 1999 PHA did not document the resolution and actions taken to address findings and recommendations that were identified as open items.

DESCRIPTION OF ALLEGED VIOLATIONS (Cont'd)

2. **Process Hazard Analysis (PHA):** At least every five (5) years after the completion of the initial process hazard analysis, the process hazard analysis shall be updated and revalidated by a team meeting the requirements in paragraph (d) of this section, to assure that the process hazard analysis is consistent with the current process as required by 40 C.F.R. § 68.67(f). Forrest Paint was unable to produce documentation that a PHA update and revalidation was done at least every five years. Forrest Paint provided hand-written notes self-described as a periodic "PSM Review" with names of attendees and dates.
3. **Process Hazard Analysis (PHA):** The owner or operator shall retain process hazards analyses and updates or revalidations for each process covered by this section, as well as the documented resolution of recommendations described in paragraph (e) of this section for the life of the process as required by 40 C.F.R. § 68.67(g). Forrest Paint was unable to produce documentation that a PHA update and revalidation has been retained. Forrest Paint provided hand-written notes self-described as a periodic "PSM Review" with names of attendees and dates.
4. **Compliance Audits:** The owner or operator shall certify that they have evaluated compliance with the provisions of this subpart at least every three years to verify that procedures and practices developed under this subpart are adequate and are being followed as required by 40 C.F.R. § 68.79(a). Forrest Paint was unable to produce documentation on conducting a compliance audit at least every three years. Forrest Paint provided hand-written notes self-described as a periodic "PSM Review" with names of attendees and dates.
5. **Compliance Audits:** A report of the findings of the audit shall be developed as required by 40 C.F.R. § 68.79(c). The facility did not provide compliance audits reports. Forrest Paint was unable to produce documentation on conducting a compliance audit with findings.
6. **Compliance Audits:** The owner or operator shall retain the two (2) most recent compliance audit reports as required by 40 C.F.R. § 68.79(e). Forrest Paint was unable to produce documentation on their two most recent compliance audits.

DID FACILITY CORRECTLY ASSIGN PROGRAM LEVELS TO PROCESSES?

YES

NO

ATTACHED CHECKLIST(S):

PROGRAM LEVEL 1

PROGRAM LEVEL 2

PROGRAM LEVEL 3

OTHER ATTACHMENTS:

Certificate of Service

The undersigned certifies that the original of the attached **EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER, In the Matter of: Forrest Paint Company, Docket No.: CAA-10-2021-0100**, 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 electronically to:

Javier Morales, RMP Coordinator
U.S. Environmental Protection Agency, Region 10
morales.javier@epa.gov

Further, the undersigned certifies that a true and correct copy of the aforementioned document was delivered electronically to:

Mike DeHaven
VP of Manufacturing
Forrest Paint Company
Po Box 22110
1011 McKinley Street
Eugene Oregon, 97402
mdehaven@forrestpaint.com

DATED this _____ day of _____, 2021

TERESA
YOUNG

 Digitally signed by
TERESA YOUNG
Date: 2021.07.16
10:33:04 -07'00'

Teresa Young
Regional Hearing Clerk
EPA Region 10