

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



**IN THE MATTER OF:** )  
 ) **DOCKET NO.: RCRA-03-2024-0093**  
 )  
**CSX Corp.** )  
 )  
 ) **EXPEDITED SETTLEMENT AGREEMENT AND**  
**Respondent,** ) **FINAL ORDER**

**CSX TRANSPORTATION, INC.**  
**22<sup>ND</sup> STREET AND 6<sup>TH</sup> AVENUE**  
**HUNTINGTON, WV 25703,**  
  
**Facility**

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

**EXPEDITED SETTLEMENT AGREEMENT**

1. CSX Corp. (“Respondent”), and the Director, Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region 3 (“Complainant”) enter into this Expedited Settlement Agreement (“Agreement”) 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 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 40 C.F.R. §§ 22.13(b), 22.18(b)(2), and (3)). The Administrator has delegated the authority to enter into this Agreement to the Regional Administrator who, in turn, has delegated it to the Complainant.
2. The U.S. Environmental Protection Agency, Region 3 (“EPA”) has jurisdiction over this matter pursuant to Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), and 40 C.F.R. §§ 22.1(a)(4) and 22.4 of the Consolidated Rules of Practice.
3. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), EPA has authorized the state of West Virginia to administer a hazardous waste management program in lieu of the federal hazardous waste management program established under RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g. The provisions of the current authorized West Virginia Hazardous Waste Management Regulations (“WVHWMR”), codified at W.Va. Code R. §§ 33-20-1 through 33-20-15 and W. Va. Code R. § 45-25, have thereby become requirements of RCRA Subtitle C and are enforceable by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a). EPA last authorized revisions to the WVHWMR on January 24, 2014, including incorporation by reference of the federal regulations which were in effect as of June 16, 2010. The Code of Federal Regulation citations used herein are to the 2010 Federal regulations in place as of June 16, 2010, when referring to the Federal regulations incorporated by the West Virginia

regulations.

4. On April 1, 2024, EPA sent a letter to the state of West Virginia, through the West Virginia Department of Environmental Protection (“WVDEP”), giving prior notice of this enforcement action in accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).
5. At its facility, located at 22nd Street and 6th Avenue, Huntington, WV 25703 (“Facility”), Respondent owns and operates a locomotive maintenance, repair and rebuild installation. Locomotives that enter the facility are dismantled and the components are repaired and refurbished in designated areas, then move back through the line for reassembly, then testing. Some of the of the processes include structural repair, such as welding, and body epoxy fillers, and painting, replacement of the traction motor lubricator wick assembly, and engine repair. Some of the hazardous waste generated by the Facility is in the form of waste fusee (flares) – D001 ignitable hazardous waste, paint waste – D001 ignitable hazardous waste, spent aerosol can contents – D001 ignitable hazardous waste, and used traction motor lubrication wicks – D008 toxic for lead. On June 17, 1985, Respondent submitted a notification to WVDEP that the Facility was a large quantity generator (“LQG”) of hazardous waste at the Facility, and WVDEP assigned RCRA ID No. WVD001863679 to the Facility.
6. Complainant alleges that, at all times relevant to the allegations described in this Agreement, Respondent was and continues to be a corporation and is therefore a “person,” as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and W.V. Code R. § 33-20-2.1.a, and at all times relevant to the allegations in this Agreement was the “operator” and the “owner” of a “facility,” described in Paragraph 5, as the terms “facility”, “owner” and “operator” are defined in 40 C.F.R. § 260.10, as incorporated by reference in W.V. Code R. § 33-20-2.1.a.
7. At all times relevant to the allegations described in this Agreement, Respondent “stored” “hazardous waste” at the Facility, including, but not limited to waste fusee (flares), paint waste, waste aerosol can contents, and used traction motor lubrication wicks, with EPA Hazardous Waste Number(s) D001 and D008 (resp.), which are “hazardous waste(s)” at the Facility, as the terms “stored” and “hazardous waste” are defined in 40 C.F.R. § 260.10, as incorporated by reference in W.V. Code R. § 33-20-2.1.a.
8. September 12<sup>th</sup> and 13<sup>th</sup>, 2023, EPA representatives conducted a Compliance Evaluation Inspection at the Facility to determine compliance with the applicable hazardous waste regulations.
9. Based on the observations during the Inspection, Complainant alleges and finds that Respondent failed to comply with specific requirements of Subtitle C of RCRA, 42 U.S.C. §§ 6921 et seq., its implementing regulations at 40 C.F.R. Parts 262, 264, 265, and the federally-authorized West Virginia hazardous waste management regulations set forth in the West Virginia Hazardous Waste Management Regulations (“WVHWMR”), W.V. Code R.

§ 33-20-2.1.a. et seq.

10. Complainant has identified the following violations at the Facility:

a. On September 12th and 13th, 2023, Respondent operated the Facility without a permit, in violation of WVHWMR § 33-20-5.1. The following acts or omissions prevented Respondent from meeting the regulatory permit exemption conditions set forth at WVHWMR § 33-20-5.1:

(1) Respondent failed to mark each container of hazardous waste with the date upon which each period of accumulation began, clearly visible for inspection on each container, as required by WVHWMR § 33-20-5.1, which incorporates by reference 40 CFR § 262.34 (a)(2)/ 40 CFR § 262.17 (a)(5)(i)(C);

(A) In the hazardous waste accumulation area, two (2) approximately 200-gallon metal boxes accumulating hazardous waste locomotive lubricator wicks and assemblies (D008), designated as Box #1 and Box #2, were not marked with date upon which accumulation began.

(B) In the "Combo Strip" area, one (1) closed, approximately 200-gallon, black metal bin, accumulating hazardous waste locomotive lubricator wicks and assemblies (D008), was not marked with date upon which accumulation began.

(2) Respondent failed to mark each container of hazardous waste with the words, "Hazardous Waste", as required by WVHWMR § 33-20-5.1, which incorporates by reference 40 CFR § 262.34 (a)(3)/ 40 CFR § 262.17 (a)(5)(i)(A);

(A) In the hazardous waste accumulation area, one (1) approximately 200-gallon metal box accumulating hazardous waste locomotive lubricator wicks and assemblies (D008), designated as Box #1, was not marked with the words, "Hazardous Waste".

(B) In the "Combo Strip" area, one (1) closed, approximately 200-gallon, black metal bin, accumulating hazardous waste locomotive lubricator wicks and assemblies (D008), was not marked with the words, "Hazardous Waste".

(3) Respondent failed to mark each container of hazardous waste with an indication of the hazards of the contents, as required by WVHWMR § 33-20-5.1, which incorporates by reference 40 CFR § 262.17 (a)(5)(i)(B);

- (A) In the hazardous waste accumulation area, one (1) approximately 200-gallon metal box accumulating hazardous waste locomotive lubricator wicks and assemblies (D008), designated as Box #1, was not marked with an indication of the hazards of the contents.
  - (B) In the “Combo Strip” area, one (1) closed, approximately 200-gallon, black metal bin, accumulating hazardous waste locomotive lubricator wicks and assemblies (D008), was not marked with an indication of the hazards of the contents.
- (4) Respondent failed to maintain a Satellite Accumulation Area at or near any point of generation where wastes initially accumulate which is under the control of the operator of the process generating the waste, as required by WVHWMR § 33-20-5.1, which incorporates by reference 40 CFR § 262.34 (c)(1)/ § 262.15 (a);
- (A) In the “Hood Staging Area”, one (1) closed, partially-filled 55-gallon container marked with the words, “Hazardous Waste”, and the hazardous waste characteristic code D001, was accumulating hazardous waste spent parts washer solvent from around the entire building, including the still bottoms from the solvent distillation unit in the parts washer in the Maintenance Area on the opposite end of the building.
- b. On September 12th and 13th, 2023, Respondent failed to keep a container of hazardous waste closed, except when it is necessary to add or remove waste, in violation of WVHWMR § 33-20-8.1, which incorporates by reference 40 CFR § 265.173 (a).
- (1) In the hazardous waste accumulation area, one (1) approximately 200-gallon metal box accumulating hazardous waste locomotive lubricator wicks and assemblies (D008), designated as Box #2, was not closed and hazardous waste locomotive wick assemblies were protruding from the top of the container.
- c. On September 12th and 13th, 2023, Respondent failed to make a hazardous waste determination, in violation of WVHWMR § 33-20-5.1, which incorporates by reference 40 CFR § 262.11.
- (1) Within the hazardous waste accumulation area, in the space dedicated to disassembling the hazardous waste D008 locomotive lubricator box assemblies, materials from the assemblies, such as gaskets, as well as personal protective equipment rubber gloves, had been discarded in an open trash can with other general refuse, not managed as hazardous waste.

- (2) In the prep room of the paint shop, a used, but not empty, container of 3M™ Platinum Plus Filler was discarded in an open trash can with other general refuse. The SDS for this body filler indicates that the flash point is 88°F.
  - (3) In the Engine Strip Area of the main building, an aerosol can of Platinum Grade LPS ZeroTri® Heavy Degreaser, with a broken actuator, was discarded within a black, square metal box/cart container with used oil, spent oil filters, and oily absorbent padding, being discarded. The SDS for this degreaser indicates that the flash point is 1.4°F.
  - (4) In the Electric Shop, near the north end of the area, an aerosol can of Krylon Industrial™ Tough Coat® acrylic enamel spray paint was discarded in an open, self-tipping hopper with other general refuse. The SDS for this acrylic enamel spray paint indicates that the flash point is -20.2°F.
- d. From June 17, 2023, until at least September 13, 2023, Respondent accumulated universal waste batteries for greater than one year from the date that the universal waste was generated, in violation of WWHWMR § 33-20-13.1, which incorporates by reference 40 CFR § 273.15 (a).
- (1) Inside the wastewater treatment unit building, several spent lithium-ion batteries were within a closed 3-gallon container that was marked with the words, “Universal Waste – Batteries”, and an accumulation start date of 06/17/2022.
11. Complainant and Respondent agree that settlement of this matter for a total penalty of **THIRTEEN THOUSAND SEVEN HUNDRED FIFTY DOLLARS (\$13,750.00)** is in the public interest. In calculating this amount, Complainant considered the statutory factors set forth in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), and with specific reference to EPA’s October 1990 RCRA Civil Penalty Policy, as revised in June 2003 (“RCRA Penalty Policy”), and the 2021 RCRA Expedited Settlement Agreement Pilot.
12. Respondent agrees that, within 30 days of the effective date of this Agreement, Respondent shall make a payment of **THIRTEEN THOUSAND SEVEN HUNDRED FIFTY DOLLARS (\$13,750.00)** to “United States Treasury” with the case name, address and docket number of this Agreement (RCRA-03-2024-0093), for the amount specified above. 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>.

13. Within 24 hours of payment, Respondent shall also send proof of payment (a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer), by electronic mail to:

Eric Greenwood, Enforcement Officer (3ED22)  
U.S. EPA, Region 3  
[greenwood.eric@epa.gov](mailto:greenwood.eric@epa.gov)

and

Regional Hearing Clerk (3RC00)  
U.S. EPA, Region 3  
[R3\\_Hearing\\_Clerk@epa.gov](mailto:R3_Hearing_Clerk@epa.gov)

14. In signing this Agreement, Respondent: admits the jurisdictional allegations in this Agreement; neither admits nor denies the specific factual allegations in this Agreement, except as provided in the jurisdictional admission above; agrees not to contest EPA's jurisdiction with respect to the execution of this Agreement, the issuance of the attached Final Order, or the enforcement the Agreement; expressly waives its right to a hearing on any issue of law or fact in this Agreement and any right to appeal the accompanying Final Order; consents to the issuance of the Agreement and agrees to comply with its terms; agrees to bear its own costs and attorney's fees; and agrees not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.
15. By its signature below, Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that (1) the alleged violations have been corrected, and (2) any documentation or information provided to EPA was true and accurate.
16. This Agreement and the attached Final Order constitute a settlement by EPA of its claims for civil penalties for the violations alleged in this Agreement.
17. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Sections 22.18(c) and 22.31(a) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under the RCRA, the RCRA regulations promulgated, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this Agreement, following its filing with the Regional Hearing Clerk.

18. Late payment of the agreed upon penalty may subject Respondent to interest, administrative costs and late payment penalties in accordance with 40 C.F.R. § 13.11.
19. This Agreement is effective upon filing, in accordance with 40 C.F.R. § 22.31(b).
20. The undersigned representative certifies that she/he is fully authorized to execute this Agreement and to legally bind CSX Corp.
21. As permitted under 40 CFR § 22.6, the Regional Hearing Clerk will serve copies of this Agreement and Final Order by e-mail to the parties at the following valid e-mail addresses: [greenwood.eric@epa.gov](mailto:greenwood.eric@epa.gov) (for Complainant), and [matthew t williamson@csx.com](mailto:matthew_t_williamson@csx.com) (for Respondent).
22. By signing this Agreement, Respondent acknowledges that this Agreement and Final Order will be available to the public and represents that, to the best of Respondent's knowledge and belief, this Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondent.

**For Respondent:** CSX Corp.

Date: 6/11/2024

By: Samuel M. Ross

NAME: Samuel M. Ross

TITLE: Director, Environmental Field Services

**For Complainant: U.S. Environmental Protection Agency, Region 3**

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

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*[Digital Signature and Date]*

Karen Melvin, Director

Enforcement and Compliance Assurance Division



BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 3  
Philadelphia, Pennsylvania 19103



IN THE MATTER OF:	)	DOCKET NO.: RCRA-03-2024-0093
	)	
CSX Corp.	)	
	)	
Respondent,	)	EXPEDITED SETTLEMENT AGREEMENT AND
	)	FINAL ORDER
	)	
CSX Transportation, Inc.	)	Proceeding under Section
22 <sup>nd</sup> Street and 6 <sup>th</sup> Avenue	)	3008(a) and (g) of the Resource
Huntington, WV 25703,	)	Conservation and Recovery Act, as
	)	amended, 42 U.S.C. § 6928(a) and (g)
Facility	)	
	)	
	)	
	)	

**FINAL ORDER**

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency - Region 3, and Respondent, CSX Corp., have executed a document entitled "Expedited Settlement 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 Expedited Settlement Agreement are accepted by the undersigned and incorporated herein as if set forth at length.

Based upon the representations of the parties in the attached Expedited Settlement Agreement, the penalty agreed to therein took into account the statutory factors set forth in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), and with specific reference to EPA's October 1990 RCRA Civil Penalty Policy, as revised in June 2003 ("RCRA Penalty Policy"), and the 2021 RCRA Expedited Settlement Agreement Pilot.

**NOW, THEREFORE, PURSUANT TO** 3008(g) of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. Section 6991e, 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 **THIRTEEN THOUSAND SEVEN HUNDRED FIFTY DOLLARS (\$13,750.00)**, in accordance with the payment provisions set forth in the Expedited Settlement Agreement, 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 Expedited Settlement Agreement and does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of Subtitle C of the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6921 et seq., and the regulations promulgated thereunder.

The effective date of the foregoing Expedited Settlement Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

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*[Digital Signature and Date]*

Joseph J. Lisa  
Regional Judicial Officer  
U.S. EPA - Region 3

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 3  
Philadelphia, Pennsylvania 19103

In the Matter of:	:	
	:	
CSX Corp.	:	
Respondent,	:	U.S. EPA Docket No. RCRA-03-2024-0093
	:	
	:	Proceeding under Section 3008(a) and (g) of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6928(a) and (g)
CSX Transportation, Inc.	:	
22nd Street and 6th Avenue	:	
Huntington, WV 25703,	:	
	:	
Facility.	:	

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**CERTIFICATE OF SERVICE**

I certify that the foregoing ***Expedited Settlement Agreement and Final Order*** was filed with the EPA Region 3 Regional Hearing Clerk on the date that has been electronically stamped on the ***Expedited Settlement 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:

Matthew Williamson, Manager Environmental Industrial Hygiene Services  
CSX Transportation, Inc.  
[matthew t williamson@csx.com](mailto:matthew_t_williamson@csx.com)  
22<sup>nd</sup> Street and 6<sup>th</sup> Avenue  
Huntington, WV 25703

Eric Greenwood  
Enforcement Officer  
U.S. EPA, Region 3  
[greenwood.eric@epa.gov](mailto:greenwood.eric@epa.gov)

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