

BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

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REGION 10

IN THE MATTER OF:)	Docket No. RCRA-10-2012-0189
Forrest Paint Company)	EXPEDITED SETTLEMENT
Eugene, Oregon)	AGREEMENT AND
EPA ID Number ORD 06342 7306)	FINAL ORDER
)	
Respondent.)	

EXPEDITED SETTLEMENT AGREEMENT

1. The U.S. Environmental Protection Agency ("EPA") is authorized to enter into this Expedited Settlement Agreement ("Agreement") pursuant to Section 3008 of the Resource Conservation and Recovery Act ("RCRA") and 40 C.F.R. § 22.13(b).
2. The Forrest Paint Company ("Respondent") is the owner or operator of a facility at 1011 McKinley Street, Eugene, Oregon 97402 ("Facility"). The EPA inspected the Facility on August 2, 2012. The EPA alleges Respondent violated the following requirements of RCRA and the EPA-approved and authorized Oregon hazardous waste management program (OAR Chapter 340, Divisions 100-120):
 - a. OAR 340-100-0002 incorporates by reference 40 C.F.R. Part 270, which requires the owner and/or operator of a hazardous waste facility that treats, stores, or disposes of dangerous waste to obtain a permit. However, OAR 340-100-0002 also incorporates 40 C.F.R. § 262.34, which allows a generator to accumulate hazardous waste onsite, without a permit, provided that the generator marks containers of hazardous waste with the date on which each period of accumulation begins [40 C.F.R § 262.34(a)(2)] and the words "Hazardous Waste" [40 C.F.R § 262.34(a)(3)]. On August 2, 2012, there were two drums near the solvent still that contained waste solvent awaiting recovery in the still. The drums were not marked with the words "Hazardous Waste" and the date on which the period of accumulation began, in violation of 40 C.F.R. § 262.34.
 - b. OAR 340-100-0002 incorporates by reference 40 C.F.R. Part 270, which requires the owner and/or operator of a hazardous waste facility that treats, stores, or disposes of dangerous waste to obtain a permit. However, OAR 340-100-0002 also incorporates 40 C.F.R. § 262.34(a)(4), which allows a generator to accumulate hazardous waste onsite, without a permit, provided that the generator complies with 40 C.F.R. § 265.16. 40 C.F.R. § 265.16(a)(3) requires that a training program be designed so facility personnel are able to respond effectively to emergencies. 40 C.F.R. § 265.16(c) requires that personnel take part in an annual review of training and 40 C.F.R. § 265.16(d)(4) requires that the owner or operator maintain records that the required training has been completed. On August 2, 2012, there was no training plan and no records of annual training review at the Facility, in violation of 40 C.F.R. Part 265.16.

- c. OAR 340-100-0002 incorporates by reference 40 C.F.R. Part 270, which requires the owner and/or operator of a hazardous waste facility that treats, stores, or disposes of dangerous waste to obtain a permit. However, OAR 340-100-0002 also incorporates 40 C.F.R. § 262.34(a)(4), which allows a generator to accumulate hazardous waste onsite, without a permit, provided that the generator complies with 40 C.F.R. Part 265 Subpart D. 40 C.F.R. § 265.52(e) requires that the facility's contingency plan include a list of all emergency equipment, including the location and a brief outline of the capability of each piece of equipment. On August 2, 2012, there was no a description of the capability of each piece of emergency equipment in the Facility's contingency plan, in violation of 40 C.F.R. § 265.52(e).
 - d. OAR 340-100-0002 incorporates by reference 40 C.F.R. § 273(d)(1), which requires that containers of universal waste lamps be kept closed. On August 2, 2012, two boxes of waste lamps being managed as universal waste in the raw materials warehouse were not closed, in violation of 40 C.F.R. § 273(d)(1).
3. The EPA has determined and Respondent agrees that settlement of this matter for a civil penalty of three thousand dollars (\$3,000) is in the public interest. The attached Penalty Calculation Worksheet is incorporated by reference.
 4. Payment under this Agreement must be made by cashier's check or certified check payable to the order of "Treasurer, United States of America" and delivered via United States mail to the following address:

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

Respondent must note on the check the title and docket number of this action.

5. Respondent must send this document with original signatures and a photocopy of the check described in Paragraph 4 to the Regional Hearing Clerk at the following address:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 10, ORC-158
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101

Photocopies of this signed document and the check described in Paragraph 4 must also be sent to EPA Region 10 at the following address:

Jack Boller, RCRA Compliance Officer
U.S. Environmental Protection Agency
Region 10, OCE-127
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101

6. The EPA reserves all of its rights to take enforcement action for any other past, present, or future violations by Respondent of RCRA, any other federal statute or regulation, or this Agreement.
7. Each party shall bear its own costs and fees, if any.
8. In signing this Agreement, Respondent: (1) admits that the EPA has jurisdiction over Respondent and Respondent's conduct as alleged herein, (2) neither admits nor denies the factual allegations contained herein, (3) consents to the assessment of this civil penalty, and (4) waives any right to contest the allegations contained herein in a hearing or appeal pursuant to Section 3008(b) of RCRA.
9. In signing this Agreement, 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) the civil penalty has been paid. Respondent is submitting proof of payment of the civil penalty with this Agreement.
10. Upon the effective date of this Agreement, payment of the civil penalty shall constitute full settlement of the civil claims alleged herein.
11. This Agreement is binding on the parties signing below and, in accordance with 40 C.F.R. § 22.31(b), is effective upon filing.

IT IS SO AGREED,

RESPONDENT:

Name (print): RICHARD SCOTT FORREST

Title (print): C.E.O.

Signature: 

Date: 9/12/2012

EPA REGION 10:



Date: 9/25/2012

Edward J. Kowalski, Director
Office of Compliance and Enforcement
U.S. Environmental Protection Agency, Region 10

IT IS SO ORDERED:


Thomas Jahnke, Regional Judicial Officer
U.S. Environmental Protection Agency, Region 10

Date: 9/26/12

U. S. EPA REGION 10
RCRA Expedited Settlement Agreement
Penalty Calculation Worksheet

Respondent:

Forrest Paint
Eugene, Oregon 97402
EPA ID Number ORD 06342 7306

Penalty Calculation:

Size of Business:

Respondent is not a "small business" based on the Small Business Administration (SBA) size standards (13 C.F.R. Part 121).

Penalty Amount for a Non-Small Business:

\$750 per violation

Violations	Number of Violations	Penalty
40 C.F.R. § 262.34: Hazardous waste container management	1	\$750
40 C.F.R. § 265.16: Training requirements	1	\$750
40 C.F.R. § 265.52(e): Contingency plan requirements	1	\$750
40 C.F.R. § 273.13(d)(1): Universal waste management	1	\$750
TOTAL	4	\$3,000

Certificate of Service

The undersigned certifies that the original of the attached **EXPEDITED SETTLEMENT AGREEMENT, In the Matter of: Forrest Paint Company, Docket No.: RCRA-10-2012-0189**, 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 to:

Jack Boller
U.S. Environmental Protection Agency
1200 Sixth Avenue, AWT-122
Suite 900
Seattle, Washington 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt to:

Terry Bollenbaugh, Environmental, Health and safety Manager
PO Box 22110
Eugene, Oregon 97402

DATED this 26th day of September, 2012



Signature

Candace H. Smith
Regional Hearing Clerk
EPA Region 10