

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 10

In the Matter of:)	
)	DOCKET NO. TSCA-10-2022-0021
)	
PELLA INLAND NORTHWEST, INC.)	EXPEDITED SETTLEMENT
)	AGREEMENT AND
)	FINAL ORDER
Spokane, Washington,)	
)	
Respondent.)	
)	

EXPEDITED SETTLEMENT AGREEMENT and FINAL ORDER

1. The U.S. Environmental Protection Agency (“EPA”) alleges that Pella Inland Northwest, Inc. (“Respondent”) failed to comply with Section 402(c) of the U.S. Toxic Substances Control Act, 15 U.S.C. § 2601 et seq. (“TSCA”).
2. The State of Washington is authorized under Section 404(a) of TSCA, 15 U.S.C. § 2684(a), and 40 C.F.R. § 745.324(d) to administer and enforce requirements for a renovation, repair, and painting (RRP) program in accordance with Section 402(c)(3) of TSCA, 15 U.S.C. § 2682(c)(3), and a lead-based paint pre-renovation education program in accordance with Section 406(b) of TSCA, 15 U.S.C. § 2686(b).
3. Section 404(b) of TSCA, 15 U.S.C. § 2684(b), makes it unlawful for any person to violate or fail or refuse to comply with any requirement of a state program authorized under Section 404 of TSCA, 15 U.S.C. § 2684.

4. The Washington Administrative Code (“WAC”) Title 365 applies to renovations performed for compensation in target housing as specified in the WAC, Chapter 365-230.

COUNT 1-5

5. WAC 365-230-340(1) requires the Respondent to retain all records necessary to demonstrate compliance with WAC 365-230-340 for a period of 3 years following completion of the renovation activities.

6. EPA conducted a RRP recordkeeping inspection with Respondent on July 27, 2021. Respondent failed to make RRP records available to demonstrate compliance with WAC 365-230-340.

7. Respondent failed to retain all RRP records specified in WAC-365-230-340(2) for a period of three years as required in WAC 365-230-340(1) after performing renovation for compensation on housing constructed prior to 1978 at 607 West 22nd Avenue, Spokane, Washington 99203; 514 West 18th Avenue, Spokane, Washington 99203; 7616 East 10th Avenue, Spokane, Washington 99212; 815 East 14th Avenue, Spokane, Washington 99202; and 2722 South Monroe Street, Spokane, Washington 99203.

8. According to records collected by EPA, 607 West 22nd Avenue, Spokane, Washington 99203 was built in 1938; 514 West 18th Avenue, Spokane, Washington 99203 was built in 1938; 7616 East 10th Avenue, Spokane, Washington 99212 was built in 1969; 815 East 14th Avenue, Spokane, Washington 99202 was built in 1951; and 2722 South Monroe Street, Spokane, Washington 99203 was built in 1941, and are *target housing* within the meaning of WAC 365-230-020(78).

9. Respondent's failure to retain records as specified in WAC 365-230-340(2) for the renovation activities at the properties listed in Paragraph 8 constitutes five separate violations of WAC-365-230-340(1).

COUNT 6

10. WAC 365-230-360(1), requires the Respondent to obtain initial firm certification from the Washington State Department of Commerce before performing, offering, or claiming to perform renovations for compensation on housing constructed prior to 1978.

11. Respondent was not firm certified when it offered, performed or claimed to perform renovation on the properties listed in Paragraph 8. This constitutes a single violation of WAC 365-230-360(1).

12. In determining the amount of penalty to be assessed, EPA has taken into account the factors specified in Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B). After considering these factors, EPA has determined, and Respondent agrees that an appropriate penalty to settle this action is **\$6,000**.

13. Upon signing this Expedited Settlement Agreement ("Agreement"), Respondent shall deposit the civil penalty amount listed in paragraph 12 by one of the following methods:

13.1 Send a cashier's or certified check or money order with a notation for TSCA-10-2022-0021 payable to the order of the "Treasury of the United States of America" to the following address:

U.S. Environmental Protection Agency
Fines and Penalties
Docket No. TSCA-10-2022-0021
Cincinnati Finance Center
P.O. Box 979077

St. Louis, Missouri 63197-9000

13.2 Send a cashier's or certified check or money order by an overnight/common carrier (*e.g.*, FedEx or United Parcel Service of America, Inc.) with a notation for TSCA-10-2022-0021 payable to the order of the "Treasury of the United States of America" to the following address:

U.S. Environmental Protection Agency
Government Lockbox 979077
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, Missouri 63101

13.3 Make an electronic deposit for payment (Vendor Express, Fedwire, Pay.gov) at <http://www2.epa.gov/financial/makepayment> following the online directions for an electronic funds transfer (EFT).

14. Concurrently with the deposit under paragraph 13, Respondent shall forward a scanned, ink signed PDF copy of the Agreement, and a copy of the cashier's or certified check or money order or documentation of a wire transfer via email to Kim Farnham, Lead-Based Paint Compliance Officer at the following email address, farnham.kim@epa.gov. By written notice to Respondent, EPA may change the address and/or person listed above.

15. EPA is authorized to enter into this Agreement and this proceeding for the assessment of a civil penalty is simultaneously commenced and concluded, pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, and 40 C.F.R. § 22.13(b).

16. In signing this Agreement, for purposes of this proceeding, Respondent: (a) admits that EPA has jurisdiction over Respondent and Respondent's conduct as alleged herein; (b) neither admits nor denies the factual allegations in this Agreement; (c) consents to the

assessment of this penalty; and (d) waives any right to contest the allegations contained in this Agreement, and its right to appeal the attached Final Order.

17. By its signature below, Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that Respondent: (a) is currently in compliance with the recordkeeping and reporting requirements as stated in WAC 365-230-340(1); (b) is currently in compliance with the firm certification requirements as stated in WAC 365-230-360(1); (c) agrees to provide a deposit for payment of the civil penalty as set forth in Paragraph 13; (d) agrees to submit a true and accurate proof of deposit for payment of the civil penalty as set forth in Paragraph 14; and (e) agrees to release said deposit for payment to EPA upon entry of the Final Order attached hereto

18. Upon the effective date of this Agreement and subsequent payment of the civil penalty as set forth in paragraph 13, Respondent shall be resolved of liability for Federal civil penalties for the violation(s) and facts alleged herein.

19. The penalty, including interest, paid by Respondent pursuant to the requirements of this Agreement, represents civil penalties assessed by EPA, and shall not be deductible for purposes of federal, state, or local income taxes.

20. EPA reserves all of its rights to take enforcement action for any other past, present, or future violations by Respondent of TSCA, any other federal statute or regulation, or this Agreement.

21. Failure of Respondent to remit the civil penalties provided herein will result in this matter being forwarded to the United States Department of Justice for collection of the amount due, plus stipulated penalties and interest at the statutory judgment rate provided in 28 U.S.C. § 1961.

22. Each party shall bear its own costs and fees, if any.

23. The Agreement authorized by EPA's execution of the Final Order attached hereto constitutes a final order under 40 C.F.R. Part 22.

24. 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): Tim Nemeec

Respondent Title (print): PRESIDENT

Respondent Signature: 

Date: 12/23/2021

APPROVED BY EPA:

Edward J. Kowalski, Director
Enforcement and Compliance Assurance Division
EPA Region 10

Date: _____

FINAL ORDER

Pursuant to the authority of Section 16 of TSCA, 15 U.S.C. § 2615, and according to the terms of the Expedited Settlement Agreement, IT IS HEREBY ORDERED THAT:

This agreement shall be effective upon the filing of the Final Order by the Regional Hearing Clerk for EPA, Region 10. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

SO ORDERED this _____ day of _____, 2021.

RICHARD MEDNICK
Regional Judicial Officer
EPA Region 10

Certificate of Service

The undersigned certifies that the original of the attached **EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER, In the Matter of: Pella Inland Northwest, Inc.**, Docket No. TSCA-10-2022-0021 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:

Kim Farnham
Lead-Based Paint Compliance Officer
U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue, Suite 155, 20-C04
Seattle, Washington 98101
farnham.kim @epa.gov

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

Mr. Timothy Nemec
Owner
Pella Inland Northwest, Inc.
411 East Pacific Avenue
Spokane, Washington 99202
tsnemec@pellaspokane.com

DATED this _____ day of _____, 2021.

Regional Hearing Clerk
EPA Region 10