

FILED

9:19 A.M. PST

January 11, 2024

**U.S. EPA REGION 10
HEARING CLERK**

**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY**

IN THE MATTER OF:)
)
)
Ennis-Flint, Incorporated)
1675 Commercial Avenue, Salem, Oregon 97301)
EPA ID No. ORQ000025909)
)
Respondent)
)
)
_____)

Docket No. RCRA-10-2024-0017

EXPEDITED SETTLEMENT
AGREEMENT AND

FINAL ORDER

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”), 42 U.S.C. § 6928, and 40 C.F.R. § 22.13(b).
2. By copy of this letter, the EPA is providing the Oregon Department of Environmental Quality with notice of the referenced violations of Subtitle C of RCRA as required by Section 3008(a)(2), 42 U.S.C. § 6928(a)(2).
3. Ennis-Flint, Incorporated (“Respondent”) is the owner or operator of the facility at 1675 Commercial Avenue, Salem Oregon 97301 (“Facility”). The EPA alleges that Respondent violated the following requirements of the RCRA and the EPA approved and authorized Oregon hazardous waste management program.
 - a. 40 C.F.R. § 262.11(f), incorporated by reference in OAR 340-100-0002, requires that a large quantity generator must maintain records supporting its hazardous waste determinations, including records that identify whether a solid waste is a hazardous waste, and that such records must be maintained for at least three years from the date that the waste was last sent to onsite or off-site treatment, storage, or disposal. At the time of EPA’s September 19-21, 2023 inspection (“inspection”), EPA inspectors determined that Respondent did not maintain on-site certain records supporting its hazardous waste determinations, including records that identify whether a solid waste is a hazardous waste, for the hazardous waste associated with Waste Profile 1825595-00 - Xylene Wash, in violation of 40 C.F.R. § 262.11(f).
 - b. 40 C.F.R. § 262.11(f), incorporated by reference in OAR 340-100-0002, requires that a large quantity generator must maintain records supporting its hazardous waste determinations, including records that identify whether a solid waste is a hazardous waste, and that such records must be maintained for at least three years from the date that the waste was last sent to onsite or off-site treatment, storage, or disposal. At the time of the inspection, EPA

inspectors determined that Respondent did not maintain on-site certain records supporting its hazardous waste determinations, including records that identify whether a solid waste is a hazardous waste, for the hazardous waste associated with Waste Profile 1825595-00 - Flammable Paint, in violation of 40 C.F.R. § 262.11(f).

- c. 40 C.F.R. § 262.15(a)(4) requires that, for certain generators to accumulate as much as 55 gallons of non-acute hazardous waste in containers 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 hazardous waste (“satellite container”) without a permit provided that, a satellite container holding hazardous waste must be closed at all times during accumulation, except when adding, removing or consolidating waste, or when temporary venting of a container is necessary. At the time of the inspection, EPA inspectors observed one black steel 55-gallon container with a top-mounted apparatus used to puncture aerosol cans for which the opening did not have any type of cover and was open to the atmosphere, in violation of 40 C.F.R. § 262.15(a)(4).
- d. 40 C.F.R. § 262.15(a)(5) requires that, for certain generators to accumulate waste in a satellite container, the satellite container holding hazardous waste must be marked or labeled its container with the words “Hazardous Waste” and with an indication of the hazards of the contents. At the time of the inspection, in the Laboratory area, inspectors observed one steel red 5-gallon step can containing hazardous waste marked “flammable and solvent contaminated items” that was not marked with the words “hazardous waste”, in violation of 40 C.F.R. § 262.15(a)(5).
- e. 40 C.F.R. § 262.15(a)(5) requires that, for certain generators to accumulate waste in a satellite container, the satellite container holding hazardous waste must be marked or labeled its container with the words “Hazardous Waste” and with an indication of the hazards of the contents. At the time of the inspection, in the Specialty Paint area, inspectors observed one steel white 55-gallon drum containing hazardous waste marked “flammable liquid” and “solvent debris barrel” that was not marked with the words “hazardous waste”, in violation of 40 C.F.R. § 262.15(a)(5).
- f. 40 C.F.R. § 262.15(a)(5) requires that, for certain generators to accumulate waste in a satellite container, the satellite container holding hazardous waste must be marked or labeled its container with the words “Hazardous Waste” and with an indication of the hazards of the contents. At the time of the inspection, in the High Volume Solvent-Based Paint Production area, inspectors observed one steel white 55-gallon drum containing hazardous waste marked with the words “hazardous waste” that was not also marked with an indication of the hazards of the contents, in violation of 40 C.F.R. § 262.15(a)(5).
- g. 40 C.F.R. § 262.15(a)(5) requires that, for certain generators to accumulate waste in a satellite container, the satellite container holding hazardous waste must be marked or labeled its container with the words “Hazardous Waste” and with an indication of the hazards of the contents. At the time of the inspection, in the Fill Line area, inspectors observed one steel white 55-gallon drum containing hazardous waste marked with the words “hazardous waste” that was not also marked with an indication of the hazards of the contents, in violation of 40 C.F.R. § 262.15(a)(5).

- h. 40 C.F.R. § 262.256 requires that, for large quantity generators to accumulate hazardous waste without a permit, the large quantity generator must attempt to make arrangements with the local police department, fire department, other emergency response teams, emergency response contractors, equipment suppliers, and local hospitals, and also must maintain records which document the arrangements and either confirms such arrangements actively exist or confirms that attempts to make such arrangements were made in cases where no arrangements exist. At the time of the inspection, Respondent had not attempted to make the required arrangements and did not provide documentation of any attempts, in violation of 40 C.F.R. § 262.256.
- i. 40 C.F.R. § 262.20(a)(1) requires that a generator that offers for transport a hazardous waste for offsite treatment, storage, or disposal must prepare a Manifest (OMB Control number 2050-0039) on EPA Form 8700-22 which includes the U.S. DOT Proper Shipping Name for each waste, and further the generator must sign the manifest declaration that the contents of the manifest's consignment are fully and accurately described by their proper shipping name. At the time of the inspection, a representative of Respondent acknowledged that Respondent's manifest number 017100501FLE, the declaration of which was signed by a representative of Respondent, did not include the proper shipping name for a quantity of "waste paint" hazardous waste, in violation of 40 C.F.R. § 262.20(a)(1).
4. In determining the amount of penalty to be assessed, EPA has taken into account the factors specified in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3). After considering these factors, EPA has determined and Respondent agrees that an appropriate penalty to settle this action is \$12,750. The attached Penalty Calculation Worksheet is incorporated by reference.
5. In signing this Agreement, Respondent: (1) admits that Respondent is subject to RCRA and its implementing regulations; (2) admits that EPA has jurisdiction over Respondent and Respondent's conduct as alleged herein, (3) neither admits nor denies the factual allegations contained herein; (4) consents to the assessment of this penalty; (5) waives the opportunity for a hearing to contest any issue of fact or law set forth herein; (6) waives its right to appeal the Final Order accompanying this Agreement pursuant to Section 3008(b) of RCRA, 42 U.S.C. § 6928(b); and (7) consents to electronic service of the filed ESA.
6. Within 30 days of the effective date of this Agreement, Respondent shall pay a civil penalty of \$12,750 for the RCRA violations identified in this Agreement. Payments under this Agreement may be made by check (mail or overnight delivery), wire transfer, ACH, or online payment. Payment instructions are available at: <http://www2.epa.gov/financial/makepayment>. Payments made by a cashier's check or certified check must be payable to the order of "Treasurer, United States of America" and delivered to the following address:

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

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

7. Concurrent with payment, Respondent must serve photocopies of the check, or proof of other payment method, described in Paragraph 6 on the Regional Hearing Clerk and EPA Region 10 at the following addresses:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 10
R10_RHC@epa.gov

Kevin Schanilec
U.S. Environmental Protection Agency
Region 10
schanilec.kevin@epa.gov

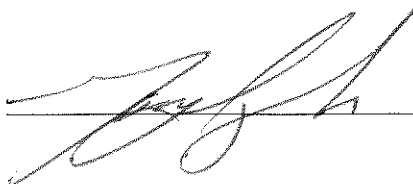
8. The undersigned representative of Respondent certifies that he or she is fully authorized to enter the terms and conditions of this Agreement and Final Order and to execute and legally bind Respondent to it.
9. EPA reserves all of its rights to take enforcement action for any other past, present, or future violations by Respondent of RCRA, any other federal statute or regulation, or this Agreement.
10. Each party shall bear its own costs and fees, if any.
11. This Agreement and Final Order shall constitute full settlement of the civil claims alleged herein.
12. No portion of the civil penalty or interest paid by Respondent pursuant to the requirements of this Agreement shall be claimed by Respondent as a deduction for federal, state or local income tax purposes.
13. This Agreement is binding on the parties signing below and, in accordance with 40 C.F.R. § 22.31(b), is effective upon filing of the Final Order with the Regional Hearing Clerk for the EPA, Region 10.

IT IS SO AGREED,

RESPONDENT:

Name (print): Gary Taylor

Title (print): Plant Manager

Signature:  _____

Date: 1/9/2023

EPA REGION 10:

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

Date: _____

FINAL ORDER

I hereby ratify the Expedited Settlement Agreement and incorporate it by reference. This Expedited Settlement Agreement and Final Order, as agreed to by the parties, shall be effective immediately upon filing with the Regional Hearing Clerk for the EPA, Region 10. Such filing will conclude this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31.

IT IS SO ORDERED,

Richard Mednick, Regional Judicial Officer
U.S. Environmental Protection Agency, Region 10

Date: _____

Certificate of Service

The undersigned certifies that the original of the attached EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER, In the Matter of: Ennis-Flint, Incorporated, Docket No. RCRA-10-2024-0017, 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 via electronic mail to:

Kevin Schanilec
U.S. Environmental Protection Agency
Region 10
schanilec.kevin@epa.gov

Gary Taylor
Ennis-Flint, Incorporated
1675 Commercial St NE
Salem, Oregon 97301
GTaylor@ppg.com

DATED this _____ day of _____, 2024.

Daniel Maul, Regional Hearing Clerk
EPA Region 10