

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 7

Received by
EPA Region 7
Hearing Clerk

In the Matter of)	
)	
Plasti-Paint Inc.)	Docket No. RCRA-07-2022-0055
De Witt, Iowa)	
RCRA ID No.: IAR000008300)	EXPEDITED SETTLEMENT
)	AGREEMENT AND FINAL ORDER
Respondent.)	

EXPEDITED SETTLEMENT AGREEMENT

- 1) The U.S. Environmental Protection Agency (“EPA”) is authorized to enter into this Expedited Settlement Agreement (“Agreement” or “ESA”) pursuant to Section 3008 of the Resource Conservation and Recovery Act (“RCRA”) and 40 C.F.R. § 22.13(b).
- 2) By copy of this letter, the EPA is providing the State of Iowa with notice of the referenced violations of Subtitle C of RCRA as required by Section 3008(a)(2).
- 3) Plasti-Paint Inc. (“Respondent”) is the owner or operator of the facility located at 316 Industrial Street, De Witt, Iowa 52742 (“Facility”). The EPA inspected the facility, on March 24, 2021. The EPA alleges that Respondent violated the following requirements of the RCRA hazardous waste management program:
 - a. 40 C.F.R. § 262.17 states that a large quantity generator may accumulate hazardous waste on site without a permit or interim status, and without complying with the requirements of 40 C.F.R. parts 124, 264 through 267 and 270, or the notification requirements of section 3010 of RCRA, provided that all the conditions for exemption listed at 40 C.F.R. Part 264.17 are met. Because the following conditions for exemption were not met, Respondent was not authorized to store hazardous waste at the Facility, and therefore was operating a hazardous waste storage facility without a permit in violation of Section 3005 of RCRA, 42 U.S.C. § 6925, and Kansas Statute Annotated 65-3431.
 - i. 40 C.F.R. 262.17(a)(6) referencing 40 C.F.R. 262.256(a) requires a large quantity generator to attempt to make arrangements with the local police department, fire department, other emergency response teams, and local hospitals. At the time of the inspection, Respondent had not made arrangements with local emergency agencies.
 - ii. 40 C.F.R. 262.17(a)(6) referencing 40 C.F.R. 262.262(b) requires a large quantity generator that first becomes subject to these provisions after May 30, 2017 or a large quantity generator that is otherwise amending its contingency plan must at that time submit a quick reference guide of the contingency plan to the local emergency respondents. At the time of the inspection, Respondent was subject to the quick reference guide and had not prepared the guide in

- order to submit it to the emergency response agencies.
- iii. 40 C.F.R. 262.17(a)(7)(v) requires a large quantity generator to maintain training records on current personnel until closure of the facility and training records on former employees for at least three years from the date the employee last worked at the facility. At the time of the inspection Respondent could not produce training records for 2018 or 2020.
 - iv. 40 C.F.R. 262.17(a)(7)(iii) requires that facility personnel must take part in an annual review of the initial training. At the time of the inspection facility personnel had not taken part of annual training in 2020.
- 4) The EPA and Respondent agree that settlement of this matter for a civil penalty three thousand seven hundred and fifty dollars (\$3,750.00) is in the public interest. Respondent certifies that it has provided a deposit for payment for the full civil penalty amount, and that such payment identified Respondent by name and docket number, was made by certified or cashier's check made payable to the "United States Treasury" and sent to:
- U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000
- or by alternate payment method described at <http://www.epa.gov/financial/makepayment>.
- 5) A copy of the check or other information confirming payment shall simultaneously be emailed to the following:
- Regional Hearing Clerk
R7_Hearing_Clerk_Filings@epa.gov; and
- Milady Peters, Paralegal
peters.milady@epa.gov
- 6) 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) agrees to release funds held on deposit as payment to the EPA for the civil penalty upon final EPA approval of this Agreement; (6) waives the opportunity for a hearing to contest any issue of fact or law set forth herein; (7) waives its right to appeal the Final Order accompanying this Agreement pursuant to Section 3008(b) of RCRA; and (8) consents to electronic service of the filed ESA to the following email address:
jschmidt@plastipaint.com.
- 7) 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, (2) it is presently in compliance with all requirements of RCRA, 42 U.S.C. § 6901 *et. seq.*, its implementing regulations, and any permit issued pursuant to RCRA, and (3) Respondent is submitting proof of payment of the civil penalty with this Agreement.

- 8) The undersigned representative of Respondent certifies that he or she is fully authorized to enter the terms and conditions of this Consent Agreement and Final Order and to execute and legally bind Respondent to it. Upon the effective date of this Agreement, payment of the civil penalty shall constitute full settlement of the civil claims alleged herein.
- 9) EPA reserves all of its rights to take an enforcement action for any other past, present, or future violations by Respondent of RCRA, any other federal statute or regulation, or this Agreement.
- 10) Full payment of the civil penalty shall only resolve Respondent's liability for federal civil penalties for the violations alleged herein. The EPA reserves the right to take any enforcement action with respect to any other past, present, or future violations of RCRA or any other applicable law.
- 11) The penalty specified herein shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal, State and local taxes.
- 12) Each party shall bear its own costs and fees, if any.
- 13) This Agreement is binding on the parties signing below.

IT IS SO AGREED,

JOHN F. SCHMIDT
Name (print)
OPERATIONS MANAGER
Title (print)
John F. Schmidt 5-10-22
Signature Date

APPROVED BY EPA:

Candace Bednar
Chemical Branch Chief
Enforcement and Compliance Assurance Division

Date

Kelley Catlin, Attorney
Office of Regional Counsel

Date

FINAL ORDER

Pursuant to the authority of Section 3008(a) and (g) of RCRA, 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, 40 C.F.R. Part 22, the foregoing Expedited Settlement Agreement resolving this matter is hereby ratified and incorporated by reference into this Final Order.

In accordance with 40 C.F.R. § 22.31(b), 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.

IT IS SO ORDERED.

Karina Borromeo
Regional Judicial Officer

Date

CERTIFICATE OF SERVICE
To be completed by EPA

I certify that that a true and correct copy of the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy via e-mail to Complainant:

Kelley Catlin, Office of Regional Counsel
catlin.kelley@epa.gov

Tim Evans, Enforcement and Compliance Assurance Division
evans.timothy@epa.gov

Copy via e-mail to Respondent:

Mr. John Schmidt, Operations Manager
Plasti-Paint Inc
jschmidt@plastipaint.com

Copy via e-mail to the State of Iowa:

Ed Tormey, Acting Administrator
Environmental Services Division
Iowa Department of Natural Resources
ed.tormey@dnr.iowa.gov

Mike Sullivan, Section Supervisor
Solid Waste and Contaminated Sites Section
Iowa Department of Natural Resources
michael.sullivan@dnr.iowa.gov

Dated this _____ day of _____, _____.

Signed