

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2

IN THE MATTER OF:) Docket No. RCRA-02-2024-7202
)
)
PLAZA PROVISION COMPANY)
(PUERTO RICO) LLC)
CARR 165 Esquina 28,)
Guaynabo, Puerto Rico, 00965)
EPA ID. No. PRR000027847) EXPEDITED SETTLEMENT AGREEMENT
) AND
) FINAL ORDER
Respondent)
_____)

EXPEDITED SETTLEMENT AGREEMENT

1. The United States Environmental Protection Agency (“EPA”) is authorized to enter into this Expedited Settlement Agreement (herein alternatively referred to as “the Agreement”) 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, EPA is providing the Puerto Rico Department of Natural and Environmental Resources with notice of the referenced violations of Subtitle C of RCRA.
3. Plaza Provision Company (Puerto Rico) LLC (“Respondent”) is the owner or operator of the facility located at Road 165, Corner 28 in Guaynabo, Puerto Rico (“Facility”). EPA conducted a RCRA Compliance Evaluation Inspection on or about June 27, 2023. EPA alleges that Respondent violated the following requirements of the RCRA hazardous waste management program:
 - a. 40 C.F.R. § 262.17(a)(7)(i)(A), which requires that facility personnel must successfully complete a program of classroom instruction, online training (e.g., computer-based or electronic), or on-the-job training that teaches them to perform their duties in a way that ensures compliance with 40 C.F.R. § 262.17. The large quantity generator must ensure that this program includes all the elements described in the document required under paragraph (a)(7)(iv) of this section. During EPA’s inspection, the facility personnel had not completed a program or training related to hazardous waste management.

- b. 40 C.F.R. § 262.17(a)(7)(iv)(B), which requires a written job description for each position listed under paragraph (a)(7)(iv)(A) of this section. This description may be consistent in its degree of specificity with descriptions for other similar positions in the same company location or bargaining unit but must include the requisite skill, education, or other qualifications, and duties of facility personnel assigned to each position. During EPA's inspection, the facility representative had available for evaluation the "Compliance & Facilities Supervisor, Handyman" job description, which includes the following statement: "Supports building security systems and emergency preparation plans for fire evacuations and possible disaster response." Nevertheless, information about hazardous waste management and/or training in RCRA or hazardous waste provisions was not included.

- c. C.F.R. § 262.261(b), which requires that if the generator has already prepared a Spill Prevention, Control, and Countermeasures ("SPCC") Plan in accordance with Part 112-Oil Pollution Prevention, or some other emergency or contingency plan, it need only amend that plan to incorporate hazardous waste management provisions that are sufficient to comply with the standards in 40 C.F.R. § 262.261. The generator may develop one contingency plan that meets all regulatory standards. EPA recommends that the plan be based on the National Response Team's Integrated Contingency Plan Guidance ("One Plan"). During EPA's inspection, EPA found that the facility had a document identified as "Plan de Emergencia y Continuidad de Negocio" which, indeed, included information such as the emergency response team names, the evacuation map, evacuation routes, the location of the facility emergency equipment (i.e., fire extinguishers), and the external emergency response/agency contact numbers. Nevertheless, the document provided for evaluation did not have available the following: arrangements agreed upon with emergency response teams, the updated emergency phone numbers of all persons qualified to act as emergency coordinators, the updated list of all emergency equipment at the facility with its location, the physical description of each item on the emergency equipment list, and a brief outline of its capabilities. As a result, this document did not incorporate sufficient hazardous waste management provisions to meet all regulatory standards required by 40 C.F.R. § 262.261.

- d. 40 C.F.R. § 262.261(c), which requires that the contingency plan must describe arrangements agreed to with the local police department, fire department, other emergency response teams, emergency response contractors, equipment suppliers, local hospitals or, if applicable, the Local Emergency Planning Committee, pursuant to 40 C.F.R. § 262.256. During EPA's inspection, the information requested in the citation above was not found in the document provided.

- e. 40 C.F.R. § 262.261(d), which requires that the contingency plan must list names and emergency telephone numbers of all persons qualified to act as emergency coordinator (see 40 C.F.R. § 262.264), and this list must be kept up to date. During EPA's inspection, the facility's emergency response phone numbers were not available in the document evaluated.
 - f. 40 C.F.R. § 262.261(e), which requires that the contingency plan must include a list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment), where this equipment is required. This emergency equipment list must be kept up to date. In addition, the contingency plan must include the location and a physical description of each item on the emergency equipment list, and a brief outline of its capabilities. During EPA's inspection, although the contingency plan provided for evaluation includes the map with the location of the facility's fire extinguishers, the physical description of the item, and a brief outline of its capabilities were not found in the document. Likewise, information related to additional facility emergency equipment; with its corresponding location, physical description, and a brief outline of its capabilities was also not found in the document evaluated.
 - g. 40 C.F.R. § 279.22(c)(1), which requires that containers and aboveground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words "Used Oil." During the CEI, the EPA Inspector observed that a 55-gallon black steel container in an area identified as "Used Oil" within the A-1 Forklift Repairs and Services Area, was not labeled as "Used Oil."
- 4. EPA and Respondent agree that settlement of this matter for a civil penalty of **eight thousand seven hundred and fifty dollars (\$8,750.00)** is in the public interest.
 - 5. In signing this Agreement, Respondent: (1) admits that it 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; and (7) consents to electronic service of the filed Expedited Settlement Agreement.
 - 6. By its signature below Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that the alleged violations have been corrected and Respondent has submitted true and accurate documentation of such correction.

7. The undersigned representative of Respondent certifies that he or she is fully authorized to enter the terms and conditions of this Expedited Settlement Agreement and Final Order and to execute and legally bind Respondent to it. Payment of the civil penalty shall constitute full settlement of the civil claims alleged herein.
8. EPA reserves all 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.
9. Each party shall bear its own costs and fees, if any.
10. This Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. § 22.31(b), shall be effective upon the filing of the Final Order with the Regional Hearing Clerk for EPA, Region 2.

Pursuant to the authority of Section 3008(a) of RCRA, 42 U.S.C. § 6938(a), and according to the terms of this Expedited Settlement Agreement and Final Order, IT IS HEREBY ORDERED THAT:

11. Within thirty (30) calendar days of the effective date of this Agreement, Respondent must pay the civil penalty of \$8,750.00 using any method provided on the following website: <https://www.epa.gov/financial/makepayment>. Such payment shall identify Respondent by name and include the docket number assigned to this Agreement by the Regional Hearing Clerk.
12. Within 24 hours of payment, email proof of payment (e.g., a copy of the check or a statement of affirmation regarding electronic funds transfer), including Respondent's name, complete address, and docket number to the following:

Karen Maples, Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 2
maples.karen@epa.gov

Rosana Caballer-Cruz, Enforcement Officer
U.S. Environmental Protection Agency, Region 2
caballer.rosana@epa.gov
13. No portion of the civil penalty or interest paid by Respondent pursuant to the requirements of this CAFO shall be claimed by Respondent as a deduction for federal, state or local income tax purposes.

In the Matter of PLAZA PROVISION COMPANY (PUERTO RICO) LLC
Docket Number RCRA-02-2024-7202

FINAL ORDER

The Regional Judicial Officer of the U.S. Environmental Protection Agency, Region 2, ratifies the foregoing Expedited Settlement Agreement. This Agreement, entered into by the parties to this matter, is hereby approved, incorporated herein, and issued as an Order pursuant to Section 3008 of the Act and 40 C.F.R. § 22.18(b)(3). The Effective Date of this Order shall be the date of its filing with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 2, New York, New York. 40 C.F.R. § 22.31 (b).

IT IS SO ORDERED:

Helen Ferrara, Regional Judicial Officer
U.S. Environmental Protection Agency – Region 2
290 Broadway
New York, New York 10007-1866

Date: _____

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CERTIFICATE OF SERVICE

I certify that I have on this day caused to be sent the foregoing fully executed Expedited Settlement Agreement and Final Order bearing docket number RCRA-02-2024-7202, in the following manner to the respective addresses listed below:

Original and One Copy by EMAIL:

Karen Maples
Office of the Regional Hearing Clerk
U.S. Environmental Protection Agency Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
maples.karen@epa.gov

By EMAIL: Oscar Rodriguez, Compliance Supervisor
Plaza Provision - Guaynabo
CARR 165 Esquina 28
Guaynabo, Puerto Rico, 00965
orodriguez@plazaprovision.com

Dated: July 24, 2024
Guaynabo, Puerto Rico

David N. Cuevas-Miranda, RCRA and Revitalization Section
Supervisor

