OHIO E.P.A.

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ENTERED DIRECTOR'S JOURNAL

I certify this to be a true and accurate copy of the official documents as filed in the records of the Ohio Environmental Protection Agency.

By: [signature] Date: 3-6-13

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of: **Harrison Paint Company** 1329 Harrison Avenue Canton, Ohio 44706 **Respondent**	**Expedited Settlement Agreement and Director's Order**

I. JURISDICTION

This Expedited Settlement Agreement and Director's Order ("ESA") is issued to Harrison Paint Company ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3734.13 and 3745.01.

II. FINDINGS

1. Respondent is a "person" as defined in ORC §3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(A).

2. Respondent operates a facility which manufactures paints and stains and that is located at 1329 Harrison Avenue, S.W., Canton, Stark County, Ohio (Facility).

3. Respondent notified Ohio EPA of its hazardous waste activities and was issued U.S. EPA generator identification number OHD004469896.

4. At the Facility, Respondent generates "hazardous waste" as that term is defined by ORC §3734.01(J) and OAC rules 3745-50-10(A) and 3745-51-03. Respondent is a large quantity generator of hazardous waste. The hazardous waste generated by Respondent at the Facility includes spent solvent used to clean equipment and paint lines (D001, F003, F005), and hazardous waste paint waste (D001, D035, F003, F005) as described in OAC rule 3745-51-21 and OAC rule 3745-51-31.

5. On March 7, 2012, Ohio EPA conducted a compliance evaluation inspection at the Facility. As a result of this inspection, Ohio EPA determined that Respondent, *inter alia*:

    a. Stored approximately thirty-five, 55-gallon drums of hazardous waste spent solvent (D001, F003, F005), for greater than ninety days without a hazardous waste installation and operation permit, in violation of ORC §3734.02(E) and (F);

    b. Failed to provide the required information in the Facility Contingency Plan, in violation of OAC rules 3745-65-52(A),(B) and (C);

    c. Failed to conduct personnel training and maintain adequate records for employees responsible for hazardous waste management, in violation of OAC rule 3745-65-16;

    d. Failed to label containers of hazardous waste with the words "hazardous waste" and the date upon which the hazardous waste accumulation period started, in violation of OAC rules 3745-52-34(A)(2) and (3);

    e. Failed to inspect areas where containers are stored at least once during the period from Sunday to Saturday, looking for leaks and/or deterioration and record the inspections in an inspection log or summary, in violation of OAC rule 3745-66-74;

    f. Failed to inspect all Facility communications or alarm systems, fire protection equipment, spill control equipment and decontamination equipment, where required, and record the inspections in a log or summary, in violation of OAC rule 3745-65-33; and

    g. Failed to properly label a satellite accumulation container with the words "hazardous waste" or other words that identify the contents of the container and failed to have the container closed except when adding or removing waste, in violation of OAC rule 3745-52-34(C)(1);

6. By electronic mail dated March 9, and letters dated April 4, 2012 and April 17, 2012, Respondent submitted information to Ohio EPA regarding the inspection referenced in Finding No. 5. of this ESA, including photographs showing proper container management, personnel training documentation, hazardous waste manifests, an updated contingency plan and inspection logs.

7. By letters dated March 21, April 17, and May 21, 2012, Ohio EPA notified Respondent of the violations referenced in Findings Nos. 5.a. through 5.g. of this ESA and also informed Respondent that based on the information Respondent had provided to Ohio EPA, the violations in Findings Nos. 5.b. through 5.g. of this ESA were abated.

8. In consideration of the amount and type of hazardous waste stored at the Facility, the continued use of the container storage area to accumulate hazardous waste spent solvent (D001, F003, F005) for less than 90 days, and the fact that no releases of hazardous waste were observed at the container storage area, the Director has determined that no additional action, including closure in accordance with OAC Chapters 3745-54 and 3745-55, is required at this time to address the violation of ORC §3734.02(E) and (F) referenced in Finding No. 5.a. of this ESA.

9. In consideration of Respondent's standing as a small business with presumed limited financial resources, its good faith effort to comply in this matter, efficiency in Ohio EPA resources, the benefits of prompt compliance to the public, and other factors as justice may require, and upon consideration of the entire record, this ESA is an appropriate mechanism to resolve the noncompliance detailed in these Findings.

III. ORDER

Within sixty (60) days from the date of the Director's letter inviting Respondent to sign this ESA, Respondent shall pay to the Ohio EPA the amount of $7,880.00 in settlement of the Ohio EPA's claim for civil penalties, which may be assessed pursuant to Chapter 3734.13 of the Ohio Revised Code. Payment shall be made by tendering an official check made payable to "Treasurer, State of Ohio" for the full amount, and shall be deposited into the hazardous waste cleanup fund established pursuant to ORC § 3734.28. Payment shall be mailed to the following address: Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying Respondent and the location of the noncompliance detailed in the Findings of this ESA. A photocopy of this check shall be submitted to Supervisor, Processing/Records Management Unit, Ohio EPA, Division of Materials and Waste Management, P.O. Box 1049, Columbus, Ohio 43216-1049.

IV. TERMINATION

Respondent's obligations under this ESA shall terminate upon both Ohio EPA's entry of this ESA in the Ohio EPA Director's journal and Ohio EPA's receipt of the civil penalty payment required by this ESA.

V. RESERVATION OF RIGHTS AND WAIVER

Ohio EPA reserves its rights to exercise its lawful authority to require Respondent to perform closure of the hazardous waste container storage area as well as corrective action at the Facility at some time in the future, pursuant to ORC Chapter 3734. or any other applicable law. Respondent reserves its rights to raise any administrative, legal or equitable claim or defense with respect to any final action of the Director regarding such closure or corrective action. Ohio EPA and Respondent each reserve all other rights, privileges and causes of action, except as specifically waived herein.

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in this ESA, Respondent consents to the issuance of this ESA and agrees to comply with this ESA. Compliance with this ESA shall be a full accord and satisfaction of Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of this ESA and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of this ESA either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if this ESA is appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall comply with this ESA notwithstanding such appeal and intervention unless this ESA is stayed, vacated or modified.

VI. EFFECTIVE DATE

The effective date of this ESA is the date this EAS is entered into the Ohio EPA Director's journal.

VII. SIGNATORY AUTHORITY

Each undersigned representative or party to this ESA certifies that he or she is fully authorized to enter into this ESA and to legally bind such party to this ESA.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

Scott J. Nally
Director

March 6, 2013
Date

IT IS SO AGREED:

Harrison Paint Company

Signature

2/7/2013
Date

PATRICK LAUBER
Printed or Typed Name

PRESIDENT
Title