

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:)	Docket No. RCRA-05-2023-0007
)	
)	
Wright-Patterson Air Force Base)	
1450 Littrell Road)	
Wright-Patterson Air Force Base, Ohio)	EXPEDITED SETTLEMENT
EPA ID No. OH7571724312 (Area B) &)	AGREEMENT AND FINAL
OH2570090066 (Area A))	ORDER
Respondent)	
)	
_____)	

EXPEDITED SETTLEMENT AGREEMENT

1. The Director, Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency (“EPA”), Region V (“Complainant”) and Wright-Patterson Air Force Base (“Respondent”) enter into this Resource Conservation and Recovery Act (“RCRA”) Expedited Settlement Agreement (“Agreement”) to settle the civil violations set forth in this Agreement for a penalty of \$10,000.

2. Respondent is the owner or operator of the facility at 1450 Littrell Road, Wright-Patterson Air Force Base, Ohio (the “Facility”). The EPA inspected the Facility on April 20-21, 2022 (the “Inspection”), and reviewed information Respondent provided to EPA on February 13, 2023. The EPA alleges that Respondent violated the requirements of RCRA 42 U.S.C. § 6921 *et seq.*, and the EPA approved and authorized Ohio hazardous waste management program, Ohio Administrative Code § 3745-50 *et seq.*, in paragraphs 3 – 8 below.

3. Section 3005 of RCRA, 42 U.S.C. § 6925(a), and the regulations at 40 C.F.R. Part 270 and Ohio Admin. Code § 3745-50-11 prohibit the treatment, storage, or disposal of hazardous waste without a permit or interim status. Under Ohio Admin. Code § 3745-52-34, however, and subject to certain exceptions, a generator of hazardous waste may accumulate hazardous waste on-site for 90 days or less without having a permit or interim status, provided that the generator complies with all applicable conditions set forth in Ohio Admin. Code § 3745-52-34 including ensuring that the date upon which each period of accumulation begins is clearly marked and visible for inspection on each hazardous waste container and marking satellite accumulation area containers with words “Hazardous Waste” or other words identifying the contents. At the time of the Inspection, (1) one

1-gallon container of potassium hydroxide in Building 4026, Area A, IAP C008, was not properly labeled with the words “Hazardous Waste,” (2) hazardous waste in two containers in Building 247, Area A, was stored for 79 days over the 90-day limit, and (3) container 202200949, in Building 247, Area A, was marked with an accumulation start date of April 6, 2022, instead of November 10, 2021, the date when accumulation began. Respondent stored hazardous waste without a permit or interim status in violation of Section 3005 of RCRA, 42 U.S.C. § 6925(a), and the regulations at Ohio Admin. Code §§ 3745-50-45(A); 3745-50-41(A) and (D) because it failed to comply with the conditions for an exemption as described above.

4. Ohio Admin. Code § 3745-273-34(A) requires that a large quantity handler of universal waste label or mark clearly universal waste batteries, or a container or tank in which the batteries are contained with any of the following phrases: “Universal Waste – Batteries” or “Waste Batteries” or “Used Batteries.” At the time of the Inspection, there were ten boxes that contained universal waste batteries in Building 4026, Area A, IAP C008, that were not labeled and there were different types of used batteries in Building 4024, Area A, IAP C046, that were not labeled individually or outside of the locker in which they were stored in violation of Ohio Admin. Code § 3745-273-34(A).

5. Ohio Admin. Code § 3745-273-35(A) requires that a large quantity handler of universal waste accumulate universal waste for no longer than one year from the date of generation. At the time of Inspection, Respondent accumulated (1) approximately twenty boxes labeled as “Universal Waste Batteries” in Building 4026, Area A, IAP C008, with an accumulation start date of 9/12/20, (2) one box labeled as “Universal Waste Lamp” in Building 470, Area B with an accumulation start date of 12/11/19, (3) two plastic bags that were labeled “Universal Waste Batteries” in Building 70, Area B, IAP B085, with an accumulation start date of 6/1/18, and (4) two boxes labeled as “Used Lamps” in Universal Waste Storage Building 70, Area B, with an accumulation start date of 6/14/19 in violation of Ohio Admin. Code § 3745-273-35(A).

6. Ohio Admin. Code § 3745-273-35(C) requires that a large quantity handler of universal waste demonstrate the length of time the universal waste has been accumulated. At the time of inspection, Respondent accumulated (1) ten boxes of universal waste batteries in Building 4026, Area A, IAP C008; (2) one container of universal waste batteries in Building 4021, Area A, IAP C061; (3) two containers of used lamps in Building 4021, Area A, IAP C061; (4) two boxes of batteries in Building 2, Area A, IAP C011; (5) used batteries in a locker in Building 4024, Area A, IAP C046; and (6) four boxes labeled “Used Lamps” in Universal Waste Storage Building 70, Area B, without an accumulation date and, therefore, was unable to demonstrate the length of time the universal waste has been accumulated in violation of Ohio Admin. Code § 3745-273-35(C).

7. Ohio Admin. Code § 3745-273-33(D)(1) requires that any lamp is contained in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with contents of the lamps. Such containers and packages must remain closed. At the time of the inspection, there was (1) one box that contained spent lamps was on a shelf on the southeastern corner of Universal Waste Storage Building 475, Area B, that was open and not in good condition, (2) one box that was labeled as “Universal Waste Lamp,” that was open in Building 470, Area B, IAP B242, and (3) six boxes that were labeled as “Used Lamps” that were open in Universal Waste Storage Building 70, Area B in violation of Ohio Admin. Code § 3745-273-33(D)(1).

8. Ohio Admin. Code § 3745-273-34(E) requires lamps or containers or packages of lamps to be labeled with one of the following phrases: “Universal Waste – Lamps(s)” or “Waste Lamps(s)” or “Used Lamps(s).” At the time of the Inspection, there were two containers that were labeled as “Used Bulbs” in Building 4021, Area A, IAP C061, in violation of Ohio Admin. Code § 3745-273-24(E).

9. The EPA and Respondent agree that settlement of this matter for a civil penalty of ten thousand dollars (\$10,000) is in the public interest.

10. 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; and (7) consents to electronic service of the filed Agreement.

11. The Respondent waives its rights to confer with the Administrator pursuant to section 6001(b)(2) of RCRA.

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, and (2) Respondent has paid the civil penalty in accordance with this Agreement.

12. 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. Upon the effective date of this Agreement, payment of the civil penalty shall constitute full settlement of the civil claims alleged herein.

13. 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.

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

15. This Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. § 22.31(b), is effective upon filing.

16. No portion of the civil penalty 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.

17. Upon signing and returning this Agreement to the EPA, the Respondent waives the opportunity for a hearing or appeal pursuant to section 9006(b) of RCRA or 40 C.F.R. part 22.

18. EPA is authorized to enter into this Agreement pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and 40 C.F.R. §§ 22.13(b), and 22.18(b)(2)–(3).

19. Respondent shall pay a civil penalty of ten thousand dollars (\$10,000) within 30 days of its receipt of the letter setting forth the opportunity for expedited settlement. Payment of civil penalty may be made online at www.pay.gov. To pay online at www.pay.gov use the Search Public Forms option and enter 'sfo 1.1' in the search field then open form and complete required fields. If Respondent is unable to pay the penalty online at www.pay.gov, contact Bryan Gangwisch at gangwisch.bryan@epa.gov to make alternative arrangements. Respondent must send a notice of payment that states Respondent's name, complete address, and the case docket number to EPA at the following addresses, when it pays the penalty:

Regional Hearing Clerk
U.S. EPA, Region 5
r5hearingclerk@epa.gov

Bryan Gangwisch
Land Enforcement and Compliance Assurance Branch
U.S. EPA, Region 5
gangwisch.bryan@epa.gov
R5LEECAB@epa.gov

Tamara Carnovsky
Office of Regional Counsel
U.S. EPA, Region 5
carnovsky.tamara@epa.gov

20. This Agreement resolves only Respondent's liability for federal civil penalties under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for the violations alleged in the Agreement.

21. In accordance with 40 C.F.R. § 22.6, the parties consent to service of this Agreement by e-mail at the following valid e-mail addresses: carnovsky.tamara@epa.gov (for Complainant), and raymond.baker.2@us.af.mil (for Respondent).

22. Respondent understands that the Agreement will become publicly available upon filing.

In the Matter of:
Wright-Patterson Air Force Base
Docket Number: RCRA-05-2023-0007

IT IS SO AGREED,

Christopher B. Meeker, Colonel, USAF
Name (print)

Commander, 88th Air Base Wing
Title (print)

MEEKER.CHRISTO
PHER.B.1091996320 Digitally signed by
MEEKER.CHRISTOPHER.B.1091
996320
Date: 2023.07.25 13:56:06 -04'00'

Signature

Date: 25-Jul-2023

APPROVED BY EPA:

Michael D. Harris
Division Director
Enforcement Compliance and Assurance Division

**In the Matter of:
Wright-Patterson Air Force Base
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FINAL ORDER

This Expedited Settlement Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Expedited Settlement Agreement and Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31.

IT IS SO ORDERED:

Ann L. Coyle
Regional Judicial Officer
United States Environmental Protection Agency
Region 5