

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66101

11-27-05 AM 9:21

ENVIRONMENTAL PROTECTION AGENCY REGION VII
REGIONAL HEARING CLERK

IN THE MATTER OF:)
)
United States Department of Veterans Affairs)
Robert J. Dole Veterans Administration)
Medical Center)
5500 East Kellogg Drive)
Wichita, Kansas 67218)
)
RCRA ID: KSR000008318)
)
Respondent.)
)
Proceeding under Section 3008(a) and (g) of)
the Resource Conservation and Recovery)
Act as amended, 42 U.S.C. § 6928(a) and (g))
_____)

**CONSENT AGREEMENT
AND FINAL ORDER**

Docket No. RCRA-07-2011-0012

The United States Environmental Protection Agency (EPA), Region 7 (Complainant) and The United States Department of Veterans Affairs, (VA or Respondent) have agreed to a settlement of this action before the filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (Consolidated Rules of Practice), 40 Code of Federal Regulations (C.F.R.) §§ 22.13(b) and 22.18(b)(2).

Jurisdiction

This administrative action is being conducted pursuant to Sections 3008(a) and (g) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA or the Act), and the Hazardous and Solid Waste Amendments of 1984 (HSWA), 42 U.S.C. § 6928(a) and (g), and in accordance with the Consolidated Rules of Practice.

1. This Consent Agreement and Final Order (CA/FO) serves as notice that the EPA has reason to believe that Respondent violated Section 3005 of RCRA, 42 U.S.C. § 6925.

Parties

2. The Complainant is the Chief of the RCRA Waste Enforcement and Materials Management Branch in the Air and Waste Management Division of the EPA, Region 7, as duly delegated from the Administrator of the EPA.

3. The Respondent, the Department of Veterans Affairs, is a department of the United States federal government. Respondent is a "person" as defined in Section 1004(15) of RCRA, 42 U.S.C. Section 6903(15).

Statutory and Regulatory Framework

4. The State of Kansas has been granted authorization to administer and enforce a hazardous waste program pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926. The State of Kansas has adopted by reference the federal regulations cited herein at pertinent parts of Title 28, Article 31 of the Kansas Administrative Regulations (K.A.R. 28-31). Section 3008 of RCRA, 42 U.S.C. § 6928, authorizes EPA to enforce the provisions of the authorized State program and the regulations promulgated thereunder. When the EPA determines that any person has violated or is in violation of any RCRA requirement, EPA may issue an order assessing a civil penalty for any past or current violation and/or require immediate compliance or compliance within a specified time period pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928. In the case of a violation of any RCRA requirement, where such violation occurs in a state which is authorized to implement a hazardous waste program pursuant to Section 3006 of RCRA, EPA shall give notice to the state in which such violation has occurred or is occurring prior to issuing an order. The State of Kansas has been notified of this action in accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

5. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), authorizes a civil penalty of not more than \$25,000 per day for violations of Subchapter III of RCRA (Hazardous Waste Management). This figure has been adjusted upward for inflation pursuant to the Civil Monetary Penalties Inflation Adjustment Rule, 40 C.F.R. Part 19, so that penalties of up to \$32,500 per day are now authorized for violations of Subchapter III of RCRA that occur after March 15, 2004 through January 12, 2009. For violations of Subchapter III of RCRA that occur after January 12, 2009, penalties of up to \$37,500 per day are now authorized.

General Factual Allegations

6. Respondent's facility, which is the subject of this action, is located at 5500 East

Kellogg Drive, Wichita, Kansas (the Facility). The Facility provides health care to veterans, including inpatient medical and psychiatric care, nursing home facilities and outpatient care. Approximately 1,020 people are employed at the Facility.

7. Respondent generates hazardous and non-hazardous solid waste at the facility as a result of its operations.

8. A waste is a "hazardous waste" if it meets the definition of "hazardous waste" set forth in K.A.R. 28-31-3 (incorporating all of 40 CFR Part 261 by reference, except for 261.5). As part of its operations, Respondent generates enough hazardous waste each year at its facility to be classified as a "Kansas Generator" (KG) pursuant to K.A.R. 28-31-2(d).

9. Respondent has been assigned a RCRA identification number of KSR000008318 for the Facility.

10. On April 27-28, 2010, EPA representatives conducted an inspection of the Facility. Violations of RCRA were noted during that inspection.

11. Prior to the EPA inspection, Respondent most recently filed a notification of hazardous waste activity on February 3, 2010, stating that the facility was a "Kansas Generator" of hazardous waste pursuant to K.A.R. 28-31-2(d). During the inspection, EPA confirmed that Facility did fit the classification of a "Kansas Generator" as of the date of the inspection.

Violations

12. The allegations stated in paragraphs 1 through 11 are re-alleged and incorporated as if fully set forth herein. Complainant hereby states and alleges that Respondent has violated RCRA and the regulations promulgated there under, as follows:

Count 1

FAILURE TO MAKE A HAZARDOUS WASTE DETERMINATION

13. The regulations at K.A.R. 28-31-4(b) requires that each person who generates a solid waste must determine if that waste is a hazardous waste.

14. At the time of the EPA inspection, it was determined that the Respondent failed to make a hazardous waste determination on certain solid waste streams at the Facility. These solid waste streams, which have been determined to be "hazardous waste" under K.A.R. 28-31-3, are as follows:

Location	Waste	Amount of Waste
Building 10, Maintenance Area	Extreme Pressure Concentrate	Five 1-gallon containers
Building 10, Maintenance Area	Black unknown liquid, ultimately disposed of as hazardous waste	Three 5-gallon containers
Building 10, Maintenance Area	Spent anti-freeze	One 10-gallon container
Building 10, Maintenance Area	Incorrectly drained used oil filters	Four filters
Building 21, Waste Storage Area	Unknown material, ultimately disposed of as hazardous waste	Two 55-gallon containers
Throughout entire Facility	Waste pharmaceuticals disposed of as general trash	Numerous containers
Oncology Clinic	Chemotherapy waste disposed of with biological waste	Numerous containers

Count 2

**OPERATING AS A TREATMENT, STORAGE, OR DISPOSAL FACILITY
WITHOUT A RCRA PERMIT OR RCRA INTERIM STATUS**

15. The allegations stated in paragraphs 1 through 14 are realleged and incorporated as if fully set forth herein.

16. Section 3005 of RCRA, 42 U.S.C. § 6925, and K.S.A. 65-3437 require each person owning or operating a facility for the treatment, storage, or disposal of a hazardous waste identified or listed under Subchapter C of RCRA to have a permit for such activities.

Failure to Comply with Generator Requirements

17. At the time of the EPA inspection Respondent did not have a permit or interim status for the Facility.

18. The regulations at K.A.R. 28-31-4(h)(1), allow a "Kansas Generator" to accumulate hazardous waste on-site without a permit or interim status provided the conditions listed in K.A.R. 28-31-4(h)(1)(A) - (H) are met. These conditions include compliance with other hazardous waste regulatory requirements.

19. At the time of the inspection, Respondent was not complying with various hazardous waste regulatory requirements, described below. Therefore, Respondent did not

comply with the conditions in the regulations that allow generators to accumulate hazardous waste at their facility without a permit or interim status.

Failure to label hazardous waste accumulation containers

20. The regulations at K.A.R. 28-31-4(h)(4), and by incorporation 40 C.F.R. § 262.34(a) (3), require that each container in which hazardous waste is accumulated must be clearly marked with the words "Hazardous Waste."

21. At the time of the EPA inspection of the Facility, it was documented that nine (9) full five gallon containers of Xpert MRSA (D002) hazardous waste, located in the Facility's Clinical Laboratory, were not labeled as "Hazardous Waste."

22. Respondent violated K.A.R. 28-31-4(h)(4) and by incorporation 40 C.F.R. § 262.34(a) (3) by not properly labeling the nine (9) containers of D002 hazardous waste at the Facility.

Failure to conduct weekly hazardous waste inspections

23. The regulations at K.A.R. 28-31-4(h)(2)(A), and by incorporation 40 C.F.R. § 265.174, require that containers of hazardous waste be inspected weekly for signs of leakage or deterioration.

24. At the time of the EPA inspection of the Facility, a representative of Respondent stated that the nine (9) full five gallon containers of Xpert MRSA (D002) hazardous waste, located in the Facility's Clinical Laboratory, had not been inspected on a weekly basis.

25. Respondent violated K.A.R. 28-31-4(h)(2)(A), and by incorporation 40 C.F.R. § 265.174, by not inspecting the nine (9) containers of D002 hazardous waste at the Facility on a weekly basis.

Failure to document the time of weekly hazardous waste inspections

26. The regulations at K.A.R. 28-31-4(k)(2) require that weekly hazardous waste inspections must be documented.

27. The Facility's weekly inspection logs show that from August 15, 2007 through March 2, 2010 the time of the weekly inspections was not documented.

28. Respondent violated K.A.R. 28-31-4(k)(2) by failing to document the time of its weekly hazardous waste inspections from August 15, 2007 through March 2, 2010.

Unlabeled satellite accumulation containers

29. The regulations at K.A.R. 28-31-4(j)(1)(B), and by incorporation 40 C.F.R. § 262.34(c)(1) (ii), require that satellite accumulation containers be labeled with the words "Hazardous Waste" or with words that identify the contents of the containers.

30. At the time of the EPA inspection it was documented that within the Clinical Laboratory at the Facility, one half-full five gallon satellite container of Xpert MRSA, a D002 hazardous waste, was not labeled as "Hazardous Waste."

31. Respondent violated K.A.R. 28-31-4(j)(1)(B), and by incorporation 40 C.F.R. § 262.34(c)(1) (ii), when it failed to label the above described satellite accumulation container at the Facility.

Failure to keep hazardous waste satellite accumulation containers closed

32. The regulations at K.A.R. 28-31-4(j)(1)(A), and by incorporation 40 C.F.R. § 262.34(c)(1) (i), require that satellite accumulation containers be kept closed except when necessary to remove hazardous waste.

33. At the time of the EPA inspection it was documented that within the Clinical Laboratory at the Facility, one half-full five gallon satellite container of Xpert MRSA, a D002 hazardous waste, was not closed and no hazardous waste was being removed.

34. Respondent violated K.A.R. 28-31-4(j)(1)(A), and by incorporation 40 C.F.R. § 262.34(c)(1) (i), when it failed to keep the above described hazardous waste satellite accumulation container at the Facility closed at times when hazardous waste was not being removed.

Failure to make agreements with local emergency agencies

35. The regulations at 40 C.F.R. § 265.37(a)(3), require that generators of hazardous waste must make agreements with State emergency response teams, emergency response contractors, and emergency suppliers.

36. At the time of the EPA inspection Respondent's representatives stated that Respondent had not made agreements with State emergency response teams, emergency response

contractors, and emergency suppliers.

37. Respondent violated 40 C.F.R. § 265.37(a)(3) by not making agreements with State emergency response teams, emergency response contractors, and emergency suppliers.

Count 3

FAILURE TO USE A MANIFEST FOR SHIPMENT OF HAZARDOUS WASTES

38. The regulations at K.A.R. 28-31-4(d)(1) and 40 CFR 262.20(a)(1) require that when a generator of hazardous waste, particularly one that falls within the qualifications of a "Kansas Generator," offers hazardous waste for transport, it must prepare a uniform hazardous waste manifest.

39. At the time of the EPA inspection of the Facility, it was discovered that Respondent had not used a uniform hazardous waste manifest when shipping off for disposal Xpert MRSA (a D002 hazardous waste) and an assortment of other hazardous waste mixed with biological waste.

40. Respondent's failure to use a uniform hazardous waste manifest, when shipping the above described hazardous waste for off-site disposal, is a violation of K.A.R. 28-31-4(d)(1) and 40 CFR 262.20(a)(1).

Count 4

FAILURE TO LABEL USED OIL CONTAINERS WITH THE WORDS "USED OIL"

41. The regulations at K.A.R. 28-31-16 and 40 CFR 279.22(c) require that used oil storage containers be labeled with the words "Used Oil."

42. At the time of the EPA inspection of the Facility, it was documented that Respondent stored at least five containers of used oil, of varying sizes, without labeling them as with the words "Used Oil."

43. Respondent's failure to label containers of used oil at the Facility with the words "Used Oil" is a violation of at K.A.R. 28-31-16 and 40 CFR 279.22(c).

III. CONSENT AGREEMENT

44. Respondent and EPA agree to the terms of this CAFO. This CAFO and its Attachments shall constitute the complete agreement between the parties respecting the subject matter hereof.

45. Respondent admits the jurisdictional allegations of this CAFO and agrees not to contest EPA's jurisdiction in this proceeding or any subsequent proceeding to enforce the terms of this CAFO.

46. Respondent neither admits nor denies the factual allegations and legal conclusions set forth in this CAFO.

47. Respondent waives its right to a judicial or administrative hearing on any issue of fact or law set forth above, and its right to appeal the proposed Final Order portion of this CAFO.

48. Respondent and Complainant agree to conciliate the matters set forth in this CAFO without the necessity of a formal hearing and to bear their respective costs and attorney's fees.

49. This CAFO addresses and resolves all civil claims for the RCRA violations and facts alleged above. Complainant reserves the right to take any enforcement action with respect to any other violations of RCRA or any other applicable law.

50. Nothing contained in this CAFO shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, state, and local environmental statutes and regulations and applicable permits.

51. Respondent certifies that, to the best of its knowledge, Respondent's Facility, which is the subject of this CAFO, is in compliance with RCRA, 42 U.S.C. 6901 et seq. and all regulations promulgated thereunder.

52. The effect of settlement is conditioned upon the completion of the requirements of this CAFO as specified in the Final Order.

53. The undersigned representative of Respondent certifies that he or she is fully authorized to enter the terms and conditions of this CAFO and to execute and legally bind Respondent to it.

Supplemental Environmental Project (SEP)

54. Respondent agrees that, in settlement of the claims alleged in this CAFO, Respondent shall pay a mitigated civil penalty of Seventeen Thousand Nine Hundred Seventy-Nine Dollars (\$17,979), as set forth in Paragraph 1 of the Final Order below, and shall perform a Supplemental Environmental Project ("SEP") as set forth in this CAFO. Respondent projects that the cost of the SEP shall be Sixty-One Thousand Nine Hundred Dollars and Eighty-Four Cents (\$61,900.84).

55. The penalty specified in the paragraph above shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal taxes.

56. In response to the violations of RCRA alleged in this CAFO and in settlement of this matter, although not required by RCRA or any other federal, state, or local law, Respondent shall complete the SEP described in this CAFO, which the parties agree is intended to secure significant environmental or public health protection and improvement.

57. Respondent shall complete the following SEP: Respondent shall install a portable hazardous waste accumulation building that will facilitate proper accumulation of its generated hazardous wastes prior to disposal through a licensed hazardous waste contractor. This SEP shall be performed in accordance with the requirements of this CAFO and the SEP Work Plan that is attached to this document and incorporated by reference.

58. Within nine (9) months of the effective date of this CAFO, Respondent shall submit a SEP Completion Report to EPA. The SEP Completion Report shall conform to the requirements of this CAFO and shall contain the following information:

- a. A detailed description of the SEP as implemented, including itemized costs;
- b. A description of any problems encountered in implementation of the project and the solution thereto;
- c. A quantified description of the specific environmental and/or public health benefits resulting from implementation of the SEP; and
- d. Certification that the SEP has been fully implemented pursuant to the provisions of this CAFO.

59. In itemizing its costs in the SEP Completion Report, Respondent shall clearly identify and provide acceptable documentation for all SEP costs. For purposes of this Paragraph, "acceptable documentation" includes invoices, purchase orders, or other documentation that specifically identifies and itemizes the individual costs of the goods and/or services for which payment is being made. Cancelled drafts do not constitute acceptable documentation unless such drafts specifically identify and itemize the individual costs of the goods and/or services for which payment is being made.

60. The SEP Completion Report shall include the statement of Respondent, through an officer, signed and certifying under penalty of law the following:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

61. The SEP Completion Report shall be submitted on or before the due date specified in Paragraph 58 to:

Edwin G. Buckner, PE
AWMD/WEMM
Environmental Protection Agency
Region 7
901 North 5th Street
Kansas City, Kansas 66101.

62. Any public statement, oral or written, in print, film, internet, or other media, made by Respondent making reference to the SEP shall include the following language:

This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental Protection Agency for violations of the Resource Conservation and Recovery Act. 42 U.S.C. § 6901 *et. seq.*

63. Respondent hereby certifies that, as of the date of this CAFO, Respondent is not required to perform or develop the SEP described in this CAFO by any federal, state, or local law or regulation; nor is Respondent required to perform or develop the SEP by any other agreement, grant or as injunctive relief in this or any other case. Respondent further certifies that it has not received, and is not presently negotiating to receive credit in any other enforcement action for the SEP.

64. Respondent certifies that it is not a party to any open federal financial assistance transaction that is funding or could be used to fund the same activity as the SEP. Defendant/Respondent further certifies that, to the best of its knowledge and belief after reasonable inquiry, there is no such open federal financial transaction that is funding or could be used to fund the same activity as the SEP, nor has the same activity been described in an unsuccessful federal financial assistance transaction proposal submitted to EPA within two years of the date of this settlement (unless the project was barred from funding as statutorily ineligible). For the purposes of this certification, the term "open federal financial assistance

transaction" refers to a grant, cooperative agreement, loan, federally-guaranteed loan guarantee or other mechanism for providing federal financial assistance whose performance period has not yet expired.

65. Respondent agrees to the payment of stipulated penalties as follows:

a. In the event Respondent fails to comply with any of the terms or provisions of this Agreement relating to the performance of the SEP, above, and/or to the extent that the actual expenditures for the SEP do not equal or exceed the cost of the SEP described in this CAFO, Respondent shall be liable for stipulated penalties according to the provisions set forth below:

(1) Except as provided in Subparagraph b. immediately below, if the SEP is not completed satisfactorily and timely pursuant to the requirements set forth in this CAFO, Respondent shall be liable for and shall pay a stipulated penalty to the United States in the amount of Fifty Thousand Dollars (\$50,000).

(2) If the SEP is satisfactorily completed, but the Respondent spent less than Fifty-Three Thousand Nine Hundred Thirty-Eight Dollars (\$53,938) on the SEP, Respondent shall pay a stipulated penalty to the United States in the amount of Fifteen Thousand Dollars (\$15,000).

b. If the SEP identified in this CAFO is not completed satisfactorily, but EPA determines that Respondent: (1) has made good faith and timely efforts to complete the SEPs; and (2) has certified, with supporting documentation, that Respondent spent at least Fifty-Three Thousand Nine Hundred Thirty-Eight Dollars (\$53,938) on the SEP, Respondent shall not be liable for payment of a stipulated penalty.

c. If the SEP is satisfactorily completed in accordance with the CAFO, but EPA determines that the Respondent has spent at least Fifty-Three Thousand Nine Hundred Thirty-Eight Dollars (\$53,938) on the SEP, Respondent shall not be liable for any stipulated penalty.

d. If Respondent fails to timely and completely submit the SEP Completion Report required by this CAFO, Respondent shall be liable for and shall pay a stipulated penalty in the amount of One Hundred Dollars (\$100.00) for each day after the due date until a complete report is submitted.

e. EPA shall determine whether the SEP has been satisfactorily completed and whether the Respondent has made a good faith, timely effort to implement the SEP.

f. Stipulated penalties shall begin to accrue on the day after performance is due, and shall continue to accrue through the final day of the completion of the SEP or other resolution under this CAFO.

g. Respondent shall pay stipulated penalties not more than fifteen (15) days after receipt of written demand by EPA for such penalties. Method of payment shall be in accordance with the provisions set forth in Paragraph 2 of the Final Order portion of this CAFO, below.

66. **Late Payment Provisions:** Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on a civil or stipulated penalty if it is not paid by the date required. Interest will be assessed at a rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b). A charge will be assessed to cover the costs of debt collection including processing and handling costs and attorneys fees. In addition, a non-payment penalty charge of six (6) percent per year compounded annually will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. Any such non-payment penalty charge on the debt will accrue from the date the penalty payment becomes due and is not paid. 31 C.F.R. §§ 901.9(c) and (d).

67. Respondent understands that failure to pay any portion of the civil penalty on the date the same is due may result in the commencement of a civil action in Federal District Court to collect said penalty, along with interest thereon at the applicable statutory rate.

Effective Date

68. This CAFO shall be effective upon entry of the Final Order by the Regional Judicial Officer for EPA, Region 7. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

Reservation of Rights

69. Except as expressly provided in this CAFO, EPA reserves the right to enforce the terms of the Final Order portion of this CAFO by initiating an action under Section 3008 of RCRA, 42 U.S.C. § 6928, and to seek penalties against Respondent in an amount not to exceed Thirty-two Thousand Five Hundred Dollars (\$32,500) per day per violation pursuant to Section 3008(c) and/or Section 3008(g) of RCRA, for each day of non-compliance with the terms of the Final Order, or to seek any other remedy allowed by law. Pursuant to the Civil Monetary

Penalties Inflation Adjustment Rule, 40 C.F.R. Part 19, penalties of up to \$32,500 per day are now authorized for violations of Subchapter III of RCRA that occur after March 15, 2004, though January 12, 2009. For violations of Subchapter III of RCRA that occur after January 12, 2009, penalties of up to \$37,500 per day are now authorized.

70. Complainant reserves the right to take enforcement action against Respondent for any future violations of RCRA and its implementing regulations and to enforce the terms and conditions of this CA/FO.

71. Except as expressly provided herein, nothing in this CAFO shall constitute or be construed as a release from any claim (civil or criminal), cause of action, or demand in law or equity by or against any person, firm, partnership, entity, or corporation for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from Respondent's facility.

72. Notwithstanding any other provisions of the CAFO, an enforcement action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should EPA find that the future handling, storage, treatment, transportation, or disposal of solid waste or hazardous waste at Respondent's facility may present an imminent and substantial endangerment to human health and the environment.

73. The headings in this CAFO are for convenience of reference only and shall not affect interpretation of this CAFO.

74. The provisions of this CAFO shall be deemed satisfied upon a written determination by Complainant that Respondent has fully implemented the actions required in the Final Order.

FINAL ORDER

Pursuant to the authority of Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and according to the terms of this CA/FO, IT IS HEREBY ORDERED THAT:

A. Payment of Civil Penalty

1. Within thirty (30) days of the effective date of this CA/FO, Respondent will pay a civil penalty of Seventeen Thousand Nine Hundred Seventy-Nine Dollars (\$17,979). The payment must be received by EPA on or before 30 days after the effective date of the Final Order

(the date by which payment must be received shall hereafter be referred to as the "due date").

2. The payment described in the preceding paragraph shall be made by way of the Intra-Governmental Payment and Collection (IPAC) System, which is administered by the United States Department of the Treasury. Such payment shall be directed to Agency Location Code 68010727, and shall identify Respondent by name and shall include the docket number of this CAFO.

3. A copy of the payment documentation shall also be mailed to:

Regional Hearing Clerk
U.S. EPA Region 7
901 North 5th Street
Kansas City, Kansas 66101

and to:

Raymond C. Bosch
Office of Regional Counsel
U.S. EPA Region 7
901 N. 5th Street
Kansas City, Kansas 66106.

4. Respondent shall complete the Supplemental Environmental Project in accordance with the provisions set forth in the Consent Agreement and shall be liable for any stipulated penalty for failure to complete such project as specified in the Consent Agreement.

B. Compliance Actions

5. Respondent shall complete the following actions within sixty (60) days after the effective date of the CAFO:

a. Respondent shall submit documentation of all hazardous waste determinations performed at Respondent's facility since April 29, 2010.

b. Respondent shall submit a standard operating procedure for assuring that all solid wastes at its facility receive a hazardous waste determination. This procedure shall also demonstrate how the facility will properly manage and dispose of all hazardous wastes generated by the facility. The facility shall implement said

procedure for at least one year thereafter.

6. Respondent shall submit within thirty (30) days after the effective date of this CAFO and on a quarterly basis for a period of one year thereafter:

a. The Respondent shall provide photographic evidence that a representative sample of hazardous waste accumulation containers are properly closed, labeled, and dated.

b. The Respondent shall provide photographic evidence of their properly managed used oil containers and tanks.

c. The Respondent shall provide copies of all manifests for hazardous wastes shipped off site during the three months prior to the quarterly report.

C. Submittals

7. All documents required to be submitted to EPA pursuant to this Final Order shall be sent to:

Edwin G. Buckner, PE
AWMD/WEMM
U.S. EPA Region 7
901 North 5th Street
Kansas City, Kansas 66101
E-mail: Buckner.edwin@epa.gov

D. Parties Bound

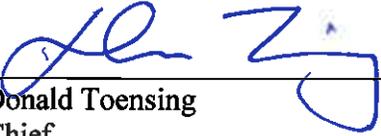
8. This Final Order portion of this CAFO shall apply to and be binding upon Complainant and Respondent, and Respondent's agents, successors and/or assigns. Respondent shall ensure that all contractors, employees, consultants, firms or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this CAFO.

FOR COMPLAINANT:

U.S. ENVIRONMENTAL PROTECTION AGENCY

7-21-11

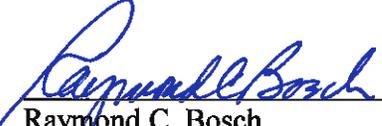
Date



Donald Toensing
Chief

Waste Enforcement and
Materials Management Branch
Air and Waste Management Division

July 21, 2011
Date



Raymond C. Bosch
Assistant Regional Counsel

FOR RESPONDENT:

UNITED STATES DEPARTMENT OF
VETERANS AFFAIRS

Signature Tom Sanders
THOMAS J. SANDERS, FACHE
Medical Center Director

7/18/11
Date

In the Matter of The United States Department
of Veteran's Affairs
Docket No. RCRA-07-2011-0011

IT IS SO ORDERED. This Final Order is effective upon its final entry by the Regional Judicial
Officer.

July 26, 2011
Date

Robert Patrick
Robert Patrick
Regional Judicial Officer

Supplemental Environmental Project

Robert J. Dole Veterans Administration

Medical and Regional Offices Center

February 2011

Introduction

The Robert J. Dole Veterans Administration Medical and Regional Office Center (RJDVAMC) agree to undertake the following environmentally beneficial Supplemental Environmental Project (SEP). This is in accordance with the Consent Agreement and Final Order (CAFO) between RJDVAMC and the United States Environmental Protection Agency (EPA) Region VII. The purpose of this SEP is to obtain environmental and public health protection and improvements that would not have otherwise occurred without the settlement incentives provided by the EPA Supplemental Environmental Projects Policy dated April 10, 1998. The SEP will be implemented with the installation of a portable hazardous waste storage building. An overview of the SEP, need and role of the SEP, and specifics of the SEP are further described herein.

Overview

This SEP will be implemented at the RJDVAMC, which uses hazardous chemicals and materials in its facilities' processes and medical care provisions. RJDVAMC recognizes its responsibility to properly manage the hazardous wastes generated by the facilities' normal operations. To meet this obligation, RJDVAMC proposes to install a portable hazardous waste storage building to properly store hazardous wastes prior to disposal, utilizing a licensed hazardous waste contractor.

The Need for and Role of the Proposed SEP

Presently the hazardous waste storage site for the RJDVAMC is adequate; however, it is located some distance from the facilities' Satellite Accumulation Points (SAP), making it inconvenient and unsafe at certain times of the year to transport wastes. The existing structure, although retrofitted, is not specifically designed for hazardous waste storage and poses some risks.

The proposed portable hazardous waste storage building is specifically engineered and designed above and beyond standard requirements to protect the environment from releases in both containing spills and suppressing any potential fires that could occur during the storing of hazardous wastes. The proposed building and new location will provide years of safe, compliant service while protecting the environment.

Specifics of the Proposed SEP

The objective of the proposed SEP encompasses procuring and installing a professionally pre-engineered portable hazardous waste storage building at a stand-alone location with-in six months after the final agreement is signed, allowing safe storage of hazardous wastes while preventing releases to the environment. The pre-engineered structure will have a built-in sump to trap spills and explosion-proof electrical devices. The building will include an exhaust, lighting, and HVAC system. The building will be constructed to have a 4-hour FM approved fire rated wall design, as well as a self-contained fire suppression system.

The building will be centrally located to the facilities satellite accumulation points on campus at no less than 50-feet from the property line and at a safe distance designated by local, state and federal mandates. The building is estimated to give 10-years of service.

Justification for SEP

RJDVAMC has the capability to execute all facets of the proposed SEP, while meeting the requirements and objectives of the SEP policy. The proposed project is environmentally beneficial and RJDVAMC agrees the proposed SEP is in accordance with the CAFO. The project is not inconsistent with any underlying statutes. The project augments the requirements of the Resource Conservation and Recovery Act and will reduce the likelihood of releases to the environment. Additionally, this project will enable proper management of the facilities' hazardous waste.

SEP Budget Breakdown

The information set out below describes the costs that RJDVAMC will incur for the SEP.

Task 1.) The approximate cost for procuring the portable hazardous waste storage facility: \$26,315.53.

Task 2.) The approximate cost for cement construction, electrical and phone routing connections for the portable hazardous waste storage facility: \$35,585.31.

The total anticipated cost of this SEP is \$61,900.84.

The estimated annual recurring costs for maintenance will be approximately \$1,000.00 which will cover the maintenance for the heating, ventilation air conditioning system, the fire suppression system, lights and phone service.

IN THE MATTER OF United States Department of Veterans Affairs; Robert J. Dole Veterans
Administration Medical Center, Respondent
Docket No. RCRA-07-2011-0012

CERTIFICATE OF SERVICE

I certify 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 hand delivered to
Attorney for Complainant:

Raymond C. Bosch
Assistant Regional Counsel
Region 7
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Michael E. Anfang, Attorney
Department of Veterans Affairs
Office of Regional Counsel
1201 Walnut Street, Suite 800
Kansas City, Missouri 64106

Dated: 7/26/11


Kathy Robinson
Hearing Clerk, Region 7