

BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

IN THE MATTER OF:)	Docket No. RCRA-10-2025-0070
)	
)	
Westak of Oregon)	
3941 24th Avenue, Forest Grove, Oregon 97116)	EXPEDITED SETTLEMENT
EPA ID No. ORD980980353)	AGREEMENT AND
)	
Respondent)	FINAL ORDER
)	
)	

EXPEDITED SETTLEMENT AGREEMENT

1. The U.S. Environmental Protection Agency (“EPA”) is authorized to enter into this Expedited Settlement Agreement (“Agreement”) pursuant to Section 3008 of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6928, and 40 C.F.R. § 22.13(b).
2. By copy of this letter, the EPA is providing the Oregon Department of Environmental Quality with notice of the referenced violations of Subtitle C of RCRA as required by Section 3008(a)(2), 42 U.S.C. § 6928(a)(2).
3. Westak of Oregon (“Respondent”) is the owner or operator of the facility at 3941 24th Avenue, Forest Grove, Oregon 97116 (“Facility”). The EPA alleges that Respondent violated the following requirements of the RCRA and the EPA approved and authorized Oregon hazardous waste management program.
 - a. 40 C.F.R. § 262.11, incorporated by reference in OAR 340-100-0002, requires persons who generate a solid waste, as defined by 40 C.F.R. § 261.2, determine if that waste is also a hazardous waste as defined by 40 C.F.R. § 261.3. At the time of EPA’s August 6, 2024 inspection (“inspection”), the EPA inspector observed that Respondent did not determine if a solid waste, in the form of an accumulation of white powder on the floor of the site, around the open base of a container bearing multiple warning labels, was also a hazardous waste at the point of generation. Failing to determine if a solid waste is also a hazardous waste at the point of generation violates 40 C.F.R. § 262.11.
 - b. Section 3005 of RCRA, 42 U.S.C. § 6925¹, requires that anyone who treats, stores or disposes of hazardous waste must have a permit or interim status. Similarly, 40 C.F.R. § 270.1 prohibits any person from storing, treating or disposing of hazardous waste without a permit or interim status. Generators may only accumulate hazardous waste on-site without a

¹ See also Oregon Revised Statute 466.095

permit or interim status if it satisfies all applicable conditions for exemption from a RCRA hazardous waste permit. At all times relevant to the allegations set forth herein Respondent has been a Large Quantity Generator (“LQG”) of hazardous waste as the term LQG is defined in 40 C.F.R. § 260.10. Pursuant to 40 C.F.R. § 262.34(a), a large quantity generator may accumulate hazardous waste on site for no more than 90 days 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 it complies with the requirements of 40 C.F.R. § 262.34(a).

- i. The regulations at 40 C.F.R. § 262.34(a)(1)(i), and by reference 265.173(a), require containers holding hazardous waste to be always closed during storage except when it is necessary to add or remove waste. During EPA’s inspection, two containers storing hazardous waste were observed sitting open. Leaving these two containers of hazardous waste open without it being necessary to do so, such as actively adding or removing waste, constitute two distinct failures to meet the requirement at 40 C.F.R. § 262.34(a)(1)(i), and by reference 265.173(a), to keep containers storing hazardous waste closed except when necessary.
- ii. The regulations at 40 C.F.R. § 262.34(a)(3) require generators to label or mark clearly each container and tank accumulating hazardous waste on-site with the words “Hazardous Waste.” During EPA’s inspection two cubic yard-sized containers holding dewatered wastewater treatment sludges from the on-site electroplating operations lacked clear labels or markings with the words “Hazardous Waste.” Failing to label or mark each container or tank accumulating hazardous waste with the words “Hazardous Waste” marks a discrete failure to meet the regulatory requirement of 40 C.F.R. § 262.34(a)(3).
- iii. The regulations at 40 C.F.R. § 262.34(a)(2) require generators to mark each container accumulating hazardous waste with the date upon which the period of accumulation began. This accumulation start date must be clear and visible for inspection. During EPA’s inspection one cubic yard-sized container holding dewatered wastewater treatment sludges from the on-site electroplating operations lacked a clear and visible marking indicating when the period of accumulation began. By failing to mark each container accumulating hazardous waste with the accumulation start date on the container, clearly, and making it visible for inspection, the generator did not meet the regulatory requirement found at 40 C.F.R. § 262.34(a)(2).
- iv. The rule at 40 C.F.R. § 262.34(a)(4), and by reference 40 C.F.R. § 265.52(e), requires generators to keep a contingency plan that includes an up-to-date list of all emergency equipment, and include the location, physical description, and an outline of the capabilities of each piece of equipment. While reviewing the Facility’s contingency plan, it was observed that the plan failed to include any mention of spill control equipment (spill kits) even though site staff acknowledged they kept such equipment on-site for emergency (spill) response. Failing to include the location, physical description, and capabilities of the spill kits on-site in their contingency plan marks a failure to meet the requirements of preparing an adequate contingency plan according

to the regulations found at 40 C.F.R. § 262.34(a)(4), and by reference 40 C.F.R. § 265.52(e).

- v. The training program requirement for generators found at 40 C.F.R. § 262.34(a)(4), and by reference 40 C.F.R. § 265.16(d)(1-3), require large quantity generators to develop and implement a training program which maintains these records:
 - a. Job title and name of employee in the job for each position related to hazardous waste
 - b. Written job description for each such position
 - c. Written training description for type and amount of training needed for the position

During EPA's inspection and reviewing the Facility's training program, it was observed the training program materials submitted lacked the specific items above and did not maintain records of the title, description, and name of the employee in each job related to hazardous waste, or provide a description of the training needed for those positions. Failing to include all the required documents and trainings into the site's training program marks a failure to develop an adequate training program according to the provisions found at 40 C.F.R. § 262.34(a)(4), and by reference 40 C.F.R. § 265.16(d)(1-3).

- vi. The rule found at 40 C.F.R. § 262.34(a)(4), and by reference 40 C.F.R. § 265.33, requires large quantity generators to test and maintain alarm systems, fire protection equipment, spill control equipment, and decontamination equipment to assure its proper operation in time of emergency. During EPA's inspection, an eye wash station was observed with an attached card recording the date the equipment was tested. The card recorded the last test date of the eye wash as occurring in December, 2023, or more than eight months prior to the inspection. Failing to inspect the operation of all decontamination equipment, including the observed eye wash station, marks a failure to meet the requirements found at 40 C.F.R. § 262.34(a)(4), and by reference 40 C.F.R. § 265.33.
- c. The requirement found at 40 C.F.R. § 279.22(b)(2)(c)(1) state that used oil generators must label or mark containers and tanks used to store used oil clearly and with the exact words "Used Oil." During EPA's inspection four steel 55-gallon drums were observed sitting without waste labels but with various markings indicating their usage and the Facility's intent to discard. However, none of the drums bore a clear label or marking with the words "Used Oil." Failing to label or mark clearly the four containers of used oil with the words "Used Oil" constitutes four distinct violations of the regulations at 40 C.F.R. § 279.22(b)(2)(c)(1) which requires used oil generators to label each container or tank clearly with the exact words, "Used Oil."
- d. The regulations found at 40 C.F.R. § 273.15(a) state that small quantity handlers of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated or received from another handler. At the time of the inspection, EPA inspectors observed three fiberboard boxes labeled as universal waste lamps with

markings indicating the date accumulation began. All three written accumulation start date markings indicated the three containers total on-site accumulation each exceeded the one-year limit. Failing to send each of the three containers of universal waste off-site for proper recovery, treatment, or disposal within the one-year accumulation time limit constitutes three distinct violations of the regulations found at 40 C.F.R. § 273.15(a).

4. In determining the amount of penalty to be assessed, EPA has taken into account the factors specified in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3). After considering these factors, EPA has determined and Respondent agrees that an appropriate penalty to settle this action is \$20,000. The attached Penalty Calculation Worksheet is incorporated by reference.
5. 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, 42 U.S.C. § 6928(b); and (7) consents to electronic service of the filed ESA.
6. Within 30 days of the effective date of this Agreement, Respondent shall pay a civil penalty of \$20,000 for the RCRA violations identified in this Agreement. Payments under this Agreement may be made by check (mail or overnight delivery), wire transfer, ACH, or online payment. Payment instructions are available at: <http://www2.epa.gov/financial/makepayment>. Payments made by a cashier's check or certified check must be payable to the order of "Treasurer, United States of America" and delivered to the following address:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

Respondent must note on the check the title and docket number of this action.

7. Concurrent with payment, Respondent must serve photocopies of the check, or proof of other payment method, described in Paragraph 6 on the Regional Hearing Clerk and EPA Region 10 at the following addresses:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 10
R10_RHC@epa.gov

Kyle Masters
U.S. Environmental Protection Agency
Region 10
Masters.Kyle@epa.gov

8. 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.

9. EPA reserves all of its rights to take enforcement action for any other past, present, or future violations by Respondent of RCRA, any other federal statute or regulation, or this Agreement.
10. Each party shall bear its own costs and fees, if any.
11. This Agreement and Final Order shall constitute full settlement of the civil claims alleged herein.
12. No portion of the civil penalty or interest paid 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.
13. This Agreement is binding on the parties signing below and, in accordance with 40 C.F.R. § 22.31(b), is effective upon filing of the Final Order with the Regional Hearing Clerk for the EPA, Region 10.

IT IS SO AGREED,

RESPONDENT:

Name (print): _____

Title (print): _____

Signature: _____

Date: _____

EPA REGION 10:

Edward J. Kowalski, Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 10

Date: _____

FINAL ORDER

I hereby ratify the Expedited Settlement Agreement and incorporate it by reference. This Expedited Settlement Agreement and Final Order, as agreed to by the parties, shall be effective immediately upon filing with the Regional Hearing Clerk for the EPA, Region 10. Such filing will conclude this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31.

IT IS SO ORDERED,

Richard Mednick, Regional Judicial Officer
U.S. Environmental Protection Agency, Region 10

Date: _____

Certificate of Service

The undersigned certifies that the original of the attached EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER, In the Matter of: Westak of Oregon, Docket No. RCRA-10-2025-0070, was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:

The undersigned certifies that a true and correct copy of the document was delivered via electronic mail to:

Kyle Masters
U.S. Environmental Protection Agency
Region 10
Masters.Kyle@epa.gov

Andrew Takle
Westak of Oregon
3941 24th Avenue
Forest Grove, Oregon 97116
atakle@westak.com

DATED this _____ day of _____, 2025.

Salee Porter, Regional Hearing Clerk
EPA Region 10