BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:	)	DOCKET NO. RCRA-10-2024-0130
	)	
United States Army, United States Army Garrison- Fort Wainwright Fairbanks, Alaska	)	**CONSENT AGREEMENT**
Respondent.	)	

I. STATUTORY AUTHORITY

1.1. This Consent Agreement is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 3008 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6928.

1.2. Pursuant to Section 6001(b) of RCRA, 42 U.S.C. § 6961(b), EPA may take enforcement action against departments, agencies, and instrumentalities of the Federal government in the same manner and under the same circumstances as against any other person.

1.3. The State of Alaska has not been authorized pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, to carry out a hazardous waste program in lieu of the Federal program. Pursuant to Section 3008(a) of RCRA, EPA may directly enforce the federal hazardous waste program in the State of Alaska.

1.4. Pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928, and in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties,"

40 C.F.R. Part 22, EPA issues, and United States Army ("Respondent") agrees to issuance of, the Final Order attached to this Consent Agreement ("Final Order").

II. PRELIMINARY STATEMENT

2.1. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b), issuance of this Consent Agreement commences this proceeding, which will conclude when the Final Order becomes effective.

2.2. The Director of the Enforcement and Compliance Assurance Division, EPA Region 10 ("Complainant") has been delegated the authority pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928, to sign consent agreements between EPA and the party against whom an administrative penalty for violations of RCRA is proposed to be assessed.

2.3. Part III of this Consent Agreement contains a concise statement of the factual and legal basis for the alleged violations of RCRA together with the specific provisions of RCRA and the implementing regulations that Respondent is alleged to have violated.

III. ALLEGATIONS

3.1 Respondent is a department, agency, and/or other instrumentality of the United States.

3.2 Respondent is a "person" as that term is defined by Section 1004(15) of RCRA, 42 U.S.C. § 6903(15) and 40 C.F.R. § 260.10.

3.3 At all times relevant to the allegations set forth in this Consent Agreement, Respondent is and has been the "owner" and "operator", as those terms are defined at 40 C.F.R. § 260.10, of United States Army Garrison Alaska - Fort Wainwright, located in Fairbanks, Alaska (the "Facility").

3.4 The Facility's RCRA ID number is AK6210022426.

3.5 Respondent generates and accumulates at the Facility "solid waste," as that term is defined at 40 C.F.R. § 261.2.

3.6 Respondent generates and accumulates at the Facility "hazardous waste" and "universal waste," as those terms are defined at 40 C.F.R. § 260.10.

3.7 Respondent is and has been a "generator" of and has engaged in the "storage" in "containers" of hazardous waste, as those terms are defined at 40 C.F.R. § 260.10, at the Facility.

3.8 Since at least 2016, Respondent has reported the Facility as a large quantity generator ("LQG"), as that term is defined at 40 C.F.R. § 260.10, meaning that it generated greater than 1,000 kilograms (2,200 pounds) of non-acute hazardous waste in a calendar month.

3.9 Respondent is a "small quantity handler of universal waste," as that term is defined in 40 C.F.R. § 273.9.

3.10 Respondent generates and accumulates at the Facility "hazardous waste pharmaceuticals," as that term is defined at 40 C.F.R. § 266.500.

3.11 Respondent is a "healthcare facility" as defined by 40 C.F.R. § 266.500.

3.12 At all times relevant to the allegations set forth in this Consent Agreement, the Facility was not a permitted treatment, storage, or disposal facility, and did not have interim status.

3.13 Pursuant to 40 C.F.R. § 266.501(d)(1), at all times relevant to this Consent Agreement, Respondent has been subject to 40 C.F.R. § 266.502 and 266.505 through 266.508 with respect to the management of, among other things, non-creditable hazardous waste pharmaceuticals.

3.14 On August 23-25, 2021, an authorized representative of EPA ("Inspector") conducted a RCRA compliance inspection ("Inspection") at the Facility.

Count I
(Failure to Make a Hazardous Waste Determination)

3.15 Pursuant to 40 C.F.R. § 262.11, a person who generates a solid waste, as defined in 40 C.F.R. § 261.2, must make an accurate determination as to whether that waste is a hazardous waste using the method provided in 40 C.F.R. § 262.11(a)-(d).

3.16 At the time of the Inspection, the Inspector observed numerous discarded solid waste items for which Respondent failed to make a hazardous waste determination in accordance with the provisions of 40 C.F.R. § 262.11, including at least the following:

a. In Building 2077W, a variety of wastes that Facility personnel indicated had been collected and stored since August 1, 2021, including at least:
    i. 1 pint of Daubert Tectyl 846 Class 1 Corrosion Preventative Compound (a D001 hazardous waste);
    ii. 2 pints of Flamemaster CS-3600 Sealant (a D001 hazardous waste);
    iii. 1 quart of Daubert Nox-Rust 501LS Corrosion Preventive Compound, (a D001 hazardous waste);
    iv. 2 pints of Sherwin Williams MIL_DTL-64159 Type II Polyurethane Catalyst, (a D001 hazardous waste);
    v. 1 Hentzen Aeroprime Yellow MIL-PRF-23377K Type I Class C2 Spec Low IR High-Solids Epoxy Primer 1.25 Gallon Kit, (a D001 hazardous waste); and
    vi. several small containers of unknown wastes contained in a cardboard box.

3.17 In Building 3494S, a variety of unlabeled wastes that Facility personnel indicated had been awaiting a waste determination for at least two months. According to the inventory and SDS provided by the Facility, at least one product, LubriBond220 Aerosol, is a D001, D035, and F003 hazardous waste.

3.18 In Building 3498, waste contained inside two parts washers that Facility personnel indicated had been out of service for at least one year or more. One container inside one parts washer appeared to be one-third full, and the other appeared to be one-quarter full of waste parts washer solvent.

3.19 Respondent's failure to accurately determine, at the points of generation, if the above materials generated at the Facility were hazardous wastes is a violation of 40 C.F.R. § 262.11.

Count II
(Storage of Hazardous Waste Without a Permit or Interim Status)

3.20 Section 3005 of RCRA, 42 U.S.C. § 6925, requires that each person who treats, stores, or disposes of hazardous waste must have a permit or interim status.

3.21 40 C.F.R. § 270.1 states that no person may store, treat, or dispose of hazardous waste without a permit or interim status.

3.22 40 C.F.R. § 262.17 provides that an LQG may accumulate hazardous waste on site without a permit or interim status provided that it meets all of the conditions for exemption listed in that section.

3.23 Since Respondent had accumulated hazardous waste at the Facility while failing to meet all of the conditions for exemption listed in 40 C.F.R. § 262.17, as described below,

Respondent was operating a treatment, storage, or disposal facility without a permit or interim status in violation of Section 3005 of RCRA, 42 U.S.C. § 6925, and 40 C.F.R. § 270.1.

Length of Time Hazardous Waste Was Accumulated On Site

3.24 40 C.F.R. § 262.17(a) provides that an LQG may accumulate hazardous waste on site without a permit or interim status for no more than 90 days unless in compliance with the accumulation time limit extension or F006 accumulation conditions for exemption set forth in that section.

3.25 Respondent has not received an accumulation time limit extension, and the hazardous wastes present are not F006 wastes subject to the conditions for exemption.

3.26 At the time of the Inspection, the Inspector observed that Respondent had accumulated the following hazardous wastes in excess of 90 days:

a. In Building 2074, a variety of wastes that Facility personnel indicated had been collected on pallets and had remained in the building for at least 90 days, or, in the case of the image intensifiers, for six months to a year. The hazardous wastes included at least the following:

   i. 5 1-oz. containers of Dowsil PR-1200 RTV Prime Coat Clear (a D001 hazardous waste);

   ii. 5 1-pt. Flamemaster CS-3600 Sealant (a D001 and D035 hazardous waste);

   iii. 2 1-qt. PPG Aerospace PS 870 C 48 Part A Sealant (a D007 hazardous waste);

iv. 2 4-oz. PPG Aerospace PS 870 C 48 Part B Sealant (a D001 hazardous waste);

v. 1 1-gal. NCP Coatings Clear Flat Base N-9294A, (a D001 and D035 hazardous waste); and

vi. 5 units of Night Vision Image Intensifier Tubes, (a D006 and D008 hazardous waste).

Management of Containers

3.27 40 C.F.R. § 262.17(a)(iv)(A) provides that an LQG may accumulate hazardous waste on site without a permit or interim status with the condition that containers holding hazardous waste must always be closed during accumulation, except when it is necessary to add or remove waste.

3.28 At the time of the Inspection, the Inspector observed containers of hazardous waste in two Facility buildings that had been left open and were not kept closed, even when no waste was being added or removed:

a. In Building 3492S, six open drain pans containing waste Stryker belly fluid ("SBF") which the Facility indicated is a D001, D039, F002 hazardous waste.

b. In Building 3494S, one open 55-gallon container containing waste SBF and one open 55-gallon container containing waste antifreeze contaminated with lead, both of which the Facility indicated are D008 hazardous wastes.

Inspections

3.29 40 C.F.R. § 262.17(a)(1)(v) provides that an LQG may accumulate hazardous waste on site without a permit or interim status provided that, at least weekly, the LQG

must inspect central accumulation areas and must look for leaking containers and for deterioration of containers caused by corrosion or other factors.

3.30 Respondent did not conduct several weekly inspections of central accumulation areas in the following Facility locations:

a. In Building 2074, weekly inspections were not being conducted;

b. In Building 3030, weekly inspections were not being conducted;

c. In Building 3480, for one week in August 2021;

d. In Building 3489, for four weeks in June and July 2019;

e. In Building 3492N, for 22 weeks between March 2020 and December 2020;

f. In Building 3492S, for 48 weeks between December 2019 and June 2021;

g. In Building 3494N, for 52 weeks between January 2019 and February 2021;

h. In Building 3494S, for 35 weeks between March 2020 and August 2021;

i. In Building 3496, for 40 weeks between January 2019 and October 2021;

j. In Building 3498, for 46 weeks between February 2019 and June 2021; and

k. In Building 3567 Medical Supply, for 13 weeks between June 2019 and July 2021.

Labeling and marking of containers

3.31 40 C.F.R. § 262.17(a)(5) provides that an LQG may accumulate hazardous waste on site without a permit or interim status provided it marks its containers with (A) the words "Hazardous waste," (B) an indication of the hazards of the contents, and (C) the date upon which each period of accumulation begins clearly visible for inspection on each container.

3.32 At the time of the Inspection, the Inspector observed containers that were not appropriately labeled and marked in the following Facility locations:

a. In Building 2074, various wastes, including those listed below, were not appropriately labeled with the words "Hazardous Waste" or hazard indicators and did not have accumulation start dates:

i. 5 1-oz. containers of Dowsil PR-1200 RTV Prime Coat Clear (a D001 hazardous waste);

ii. 5 1-pt. Flamemaster CS-3600 Sealant (a D001 and D035 hazardous waste);

iii. 2 1-qt. PPG Aerospace PS 870 C 48 Part A Sealant (a D007 hazardous waste);

iv. 2 4-oz. PPG Aerospace PS 870 C 48 Part B Sealant (a D001 hazardous waste);

v. 1 1-gal. NCP Coatings Clear Flat Base N-9294A (a D001 and D035 hazardous waste); and

vi. 5 units of Night Vision Image Intensifier Tubes (a D006 and D008 hazardous waste).

b. In Building 3030, various wastes, including those listed below, were not properly labeled with the words "Hazardous Waste" or hazard indicators and did not have accumulation start dates:

i. 1 0.75-gal. container of Akzo Nobel Coatings High Solids Abrasion Resistant CTG 23T3-105 (a D001 hazardous waste);

ii. 1 1-qt. container of Akzo Nobel Coatings High Solids Abrasion Resistant CTG PC-216 (a D001 hazardous waste);

iii. 4 1-gal. containers of Hentzen 37038 Aircraft Black VHF Zenthane MIL-DTL-53039E, Type IX (a D001 hazardous waste);

iv. 10 kits of Flamemaster CS-3330 PT A Class A BASE (ALL CLASSES) (a D001 hazardous waste); and

v. 4 containers of Dowsil PR-1200 RTV Prime Coat Clear (a D001 hazardous waste).

c. In Building 3480: a 10-gallon black metal drum containing waste solvent was labeled as "hazardous waste" and "awaiting analysis" and had an accumulation start date, but was not marked with a hazard indicator.

d. In Building 3492S: six pans of waste SBF, which the Facility indicated was a D008 hazardous waste, were not labeled with the words "Hazardous Waste," a hazard indicator, or an accumulation start date.

Emergency Procedures

3.33 40 C.F.R. § 262.17(a)(6) provides that an LQG may accumulate hazardous waste on site without a permit or interim status provided it complies with the standards in subpart M of Part 262, Preparedness, Prevention, and Emergency Procedures for Large Quantity Generators.

3.34 40 C.F.R. § 262.260 requires that an LQG must have a contingency plan for the Facility. The contingency plan must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water.

3.35 40 C.F.R. § 262.261(d) requires that a Facility's contingency plan must list names and emergency telephone numbers of all persons qualified to act as emergency coordinator under 40 C.F.R. § 262.264, and this list must be kept up to date. Where more than one person is listed, one must be named as primary emergency coordinator and others must be listed in the order in which they will assume responsibility as alternates. In situations where the generator facility has an emergency coordinator continuously on duty because it operates 24 hours per day, every day of the year, the plan may list the staffed position (*e.g.*, operations manager, shift coordinator, shift operations supervisor) as well as an emergency telephone number that can be guaranteed to be answered at all times.

3.36 40 C.F.R. § 262.263(d) requires that the contingency plan must be reviewed, and immediately amended, if necessary, whenever the list of emergency coordinators changes.

3.37 40 C.F.R. § 262.262(b) requires that an LQG amending its contingency plan must submit a quick reference guide of the contingency plan, the components of which are described in (b)(1)-(8), to the local emergency responders or the Local Emergency Planning Committee.

3.38 At the time of the Inspection, the Inspector observed that the Facility's contingency plan, which was dated July 2012, listed two individuals as emergency coordinators who have not worked at the Facility for several years; the Inspector was told by Facility staff that at least one of the listed individuals had retired in 2014 (approximately 7 years prior to the Inspection date) and that the contingency plan was still being updated.

3.39 At the time of the Inspection, the Inspector was told by Facility staff that a quick reference guide had not yet been created.

3.40 Since the Facility failed to keep its contingency plan up to date with the correct names of emergency coordinators as required by 40 C.F.R. § 262.261(d) and 40 C.F.R. § 262.263(b), and since the Facility had not created a contingency plan quick reference guide as required by 40 C.F.R. § 262.262(b), the Facility does not meet the standards in subpart M required for the Facility to utilize the exemption listed at 40 C.F.R. § 262.17.

Satellite Accumulation

3.41 40 C.F.R. § 262.15(a) provides that a generator may accumulate as much as 55 gallons of non-acute hazardous waste in containers at or near any point of generation where wastes initially accumulate which is under the control of the operator of the process generating the waste, without a permit or interim status, provided that all of the conditions for exemption in that section are met.

3.42 40 C.F.R. § 262.15(a)(5)(i) requires that a generator mark or label a container of hazardous waste with the words "Hazardous Waste."

3.43 40 C.F.R. § 262.15(a)(5)(ii) requires that a generator mark or label a container of hazardous waste with an indication of the hazards of the contents.

3.44 At the time of the Inspection, the Inspector observed in a satellite waste accumulation area inside of Building 3007 a 5-gallon container labeled "Hazardous Waste" that was labeled as "Unknown Liquid Awaiting Analysis" but that was not labeled with an appropriate hazard indicator.

3.45 Respondent's failure to appropriately mark or label the hazardous waste container that was pending analysis with an appropriate hazard indicator violates the requirements of 40 C.F.R. § 262.15(a)(5)(ii).

3.46 The Inspector also observed, in a second satellite accumulation area located in a covered caged area outside of Building 3007, a cubic yard box that contained a 5-gallon container of waste U3299C-1 Sealing Compound (a D001 hazardous waste). The container was not labeled with the words "Hazardous Waste."

3.47 According to an inventory provided to the Inspector by the Facility, the satellite accumulation area located outside of Building 3007 contained at least 11 5-gallon containers of U3299C-1 sealing compound (a D001 hazardous waste), 2 1-gallon containers of toluene (a D001 hazardous waste), and 2 1-quart containers of PU-459 adhesive (a D001 and D035 hazardous waste). The total volume of accumulated hazardous wastes in this second Building 3007 satellite accumulation area thus exceeded the 55-gallon limit stated in 40 C.F.R. § 262.15(a).

3.48 Respondent's failure to appropriately mark or label the hazardous waste container of U3299C-1 Sealing Compound with the words "Hazardous Waste" violates the requirements of 40 C.F.R. § 262.15(a)(5)(i).

3.49 Respondent's failure to comply with the 55-gallon accumulation limit in the second Building 3007 satellite accumulation area violates the requirements of 40 C.F.R. § 262.15(a).

3.50 At the time of the Inspection, the Inspector observed in a satellite waste accumulation area in Building 4076PH (pharmacy) at least 10 16-oz. containers of waste

isopropyl alcohol 70% (a D001 hazardous waste). The containers were not labeled with the words "Hazardous Waste" or with an appropriate hazard indicator.

3.51 Respondent's failure to appropriately mark or label its hazardous waste containers in Buildings 3007 and 4076PH with the words "Hazardous Waste" violates the requirements of 40 C.F.R. § 262.15(a)(5)(i).

3.52 Respondent's failure to appropriately mark or label its hazardous waste containers in Buildings 3007 and 4076PH with appropriate hazard indicators violates the requirements of 40 C.F.R. § 262.15(a)(5)(ii).

Count III
(Failure to Appropriately Manage and Ship Hazardous Waste Pharmaceuticals in Compliance with subpart P of Part 266, Hazardous Waste Pharmaceuticals)

Failure to Appropriately Manage Non-Creditable Hazardous Waste Pharmaceuticals

3.53 40 C.F.R. § 266.502(c) requires that a healthcare facility that generates a solid waste that is a non-creditable pharmaceutical must determine whether that pharmaceutical is a hazardous waste pharmaceutical.

3.54 40 C.F.R. § 266.502(e) requires that a healthcare facility must label or clearly mark each container of non-creditable hazardous waste pharmaceuticals with the phrase "Hazardous Waste Pharmaceuticals."

3.55 40 C.F.R. § 266.502(f)(2) requires that a healthcare facility that accumulates non-creditable hazardous waste pharmaceuticals on-site must demonstrate the length of time that the non-creditable hazardous waste pharmaceuticals have been accumulating, starting from the date they first become a waste, using one of the methods listed in (f)(2)(i)-(iii).

3.56 40 C.F.R. § 266.502(j)(3) requires that a healthcare facility must keep records of any test results, waste analyses, or other determinations made to support its hazardous waste determination(s) consistent with § 266.11(f), for at least three years from the date the waste was last sent to on-site or off-site treatment, storage or disposal, unless it manages all of its non-creditable non-hazardous waste pharmaceuticals as non-creditable hazardous waste pharmaceuticals.

3.57 At the time of the Inspection, the Inspector observed in Building 4076PH (pharmacy) a vial of non-creditable waste insulin (a D024 hazardous waste pharmaceutical) that had been placed inside a 1.25-gallon container that was not labeled with the words "Hazardous Waste Pharmaceuticals," and at least 35 non-creditable waste packets of Pedinol EZ Swabs, each containing at least 0.175 mL of liquified phenol (a U188 hazardous waste pharmaceutical) that were not labeled with the words "Hazardous Waste Pharmaceuticals."

3.58 The Facility is unable to demonstrate the length of time that the waste insulin and waste phenol have been accumulating in Building 4076PH using one of the methods listed in 40 C.F.R. § 266.502(f)(2)(i)-(iii).

3.59 At the time of the Inspection, the Inspector observed in Building 4076PH seven containers labeled "Pill Spill" holding thousands of mixed, unlabeled, unidentified, loose waste pills. The Facility was not able to demonstrate whether or not the materials in the "Pill Spill" containers were hazardous waste pharmaceuticals. The Facility was not able to provide any test results, waste analyses, or other information used to support its contention that none of the pills were hazardous. The Facility was not managing the "Pill Spill" containers as non-creditable hazardous waste pharmaceuticals.

3.60 The Facility violated 40 C.F.R. § 266.502(c) by failing to determine whether the solid waste non-creditable pharmaceuticals in the seven containers labeled "Pill Spill" in Building 4076PH were hazardous waste pharmaceuticals.

3.61 The Facility violated the labeling requirements of 40 C.F.R. § 266.502(e) by failing to label or clearly mark each container of non-creditable hazardous waste pharmaceuticals, including the waste insulin and the waste phenol in Building 4076PH with the phrase "Hazardous Waste Pharmaceuticals."

3.62 The Facility violated the accumulation requirements of 40 C.F.R. § 266.502(f)(2) by failing to demonstrate the length of time that the non-creditable hazardous waste pharmaceuticals, including the waste insulin and waste phenol, had been accumulating, starting from the date they first became a waste, using one of the methods listed in (2)(i)-(ii).

3.63 The Facility violated 40 C.F.R. § 266.502(j)(3) by failing to keep records of any test results, waste analyses, or other determinations made to support its hazardous waste pharmaceutical determination(s) for the pills in the seven "Pill Spill" containers consistent with § 266.11(f), for at least three years from the date the waste was last sent to on-site or off-site treatment storage or disposal, unless it manages all of its non-creditable non-hazardous waste pharmaceuticals as non-creditable hazardous waste pharmaceuticals.

Failure to Appropriately Manage Shipment of Non-Creditable Hazardous Waste Pharmaceuticals

3.64 40 C.F.R. § 266.500 defines a "potentially creditable hazardous waste pharmaceutical" as a prescription hazardous waste pharmaceutical that has a reasonable

expectation to receive manufacturer credit and is (1) in original manufacturer packaging (except pharmaceuticals that were subject to a recall); (2) undispensed; and (3) unexpired or less than one year past expiration date.

3.65 40 C.F.R. § 266.508(a) requires that a healthcare facility must ship non-creditable hazardous waste pharmaceuticals to a designated facility.

3.66 40 C.F.R. § 260.10 defines a designated facility as a hazardous waste treatment, storage, or disposal facility which has received a permit (or interim status), is regulated under 40 C.F.R. § 261.6(c)(2) or subpart F of part 266, and that has been designated on the manifest by the generator pursuant to § 262.20.

3.67 According to the document titled "BACH Pharmacy FY21 Q3 Reverse Waste Reports.pdf" provided to the Inspector and other information provided by the Facility, the Facility shipped thousands of waste pharmaceuticals to a reverse distributor, Pharma Logistics in Libertyville, IL.

3.68 The Pharma Logistics facility that received the shipment was not a designated facility.

3.69 Among the hazardous waste pharmaceuticals that were shipped to the reverse distributor were several prescription products, including but not limited to:

a. Two-12g containers of Nitroglycerin Lingual Spray 0.4 mg (a D001 hazardous waste) which, according to the documentation submitted by the Facility, the reverse distributor rejected for credit as exceeding the allowable expiration period for creditable hazardous waste pharmaceuticals by at least 11 months.

b. Six-20g containers of Silvadene 1% cream (a D011 hazardous waste) which, according to the documentation submitted by the Facility, the reverse distributor

rejected for credit as exceeding the allowable expiration period for creditable hazardous waste pharmaceuticals by 54 months (or 4.5 years).

3.70 The hazardous waste pharmaceuticals listed in the preceding paragraph cannot be considered potentially creditable hazardous waste pharmaceuticals, as they were prescription products that had been expired more than 12 months past the expiration date at the time they were sent to the reverse distributor.

3.71 The Facility violated 40 C.F.R. § 266.508(a) by shipping non-creditable hazardous waste pharmaceuticals to a facility other than a designated facility.

Count IV
(Failure to Properly Manage Universal Waste)

3.72 At the time of the 2021 Inspection, Respondent was a "Small Quantity Handler of Universal Waste," as that term is defined in 40 C.F.R. § 273.9.

Failure to Properly Manage Universal Waste--Used Lamps

3.73 40 C.F.R. § 273.13(d)(1) requires that a small quantity handler of universal waste must contain any lamp in a closed appropriate container.

3.74 40 C.F.R. § 273.14(e) requires that a small quantity handler of universal waste must label or mark each lamp or a container or package in which such lamps are contained with any of the following phrases: "Universal Waste - Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)".

3.75 40 C.F.R. § 273.15(c) requires that a small quantity handler of universal waste who accumulates universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is a received using one of the methods listed in 40 C.F.R. § 273.15(c)(1)-(6).

3.76 At the time of the Inspection, the Inspector observed in Building 3703B twenty-four waste lamps that had been placed in a container that was not closed.

3.77 Neither the twenty-four lamps nor the container observed in Building 3703B were labeled with any of the phrases identified in 40 C.F.R. § 273.14(e).

3.78 The Facility is not able to demonstrate the length of time the universal waste lamps have been accumulated from the date it becomes a waste or is received by any of the methods listed in 40 C.F.R. § 273.15(c)(1)-(6).

3.79 Respondent violated 40 C.F.R. § 273.13(d)(1) by failing to contain the waste lamps in a closed container.

3.80 Respondent violated 40 C.F.R. § 273.14(e) by failing to label each lamp or the container of lamps with any of the phrases identified in 40 C.F.R. § 273.14(e).

3.81 Respondent violated 40 C.F.R. § 273.15 by failing to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is a received using any of the methods listed in 40 C.F.R. § 273.15(c)(1)-(6).

Failure to Properly Manage Universal Waste--Aerosol Cans

3.82 40 C.F.R. § 273.13(e)(1) requires that a small quantity handler of universal waste must accumulate waste aerosol cans in a container that is structurally sound, compatible with the contents of the aerosol cans, lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions, and is protected from sources of heat.

3.83 40 C.F.R. § 273.14(f) requires that a small quantity handler of universal waste must label or mark each can or a container in which waste aerosol cans are contained

with any of the following phrases: "Universal Waste - Aerosol Can(s)," "Waste Aerosol Can(s)," or "Used Aerosol Can(s)".

3.84 40 C.F.R. § 273.15(c) requires that a small quantity handler of universal waste who accumulates universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is a received using one of the methods listed in 40 C.F.R. § 273.15(c)(1)-(6).

3.85 At the time of the Inspection, the Inspector observed in Building 2074 44 16-oz. aerosol containers of waste Sandstrom 28A Film Lubricant (a D001 hazardous waste) which were not labeled with any of the required phrases for universal waste aerosol cans, and for which the Facility is not able to demonstrate the length of time that the waste had been accumulated using any of the methods listed in 40 C.F.R. § 273.15(c)(1)-(6).

3.86 At the time of the Inspection, the Inspector observed in Building 3007 a worn cardboard box labeled "Scrap Metal" with a plastic-bag liner containing a mix of punctured and unpunctured waste aerosol cans. The box had visible holes and at least one broken seam, which had been partially repaired with grey tape. The bottom of the box was visibly wet. The floor under and around the box was also visibly wet.

3.87 The Inspector observed 13 unpunctured waste aerosol cans in the box in Building 3007. Neither the individual cans nor the box were labeled with any of the phrases identified in 40 C.F.R. § 273.14(f). Among the 13 cans were at least:

a. One waste aerosol can of AkzoNobel Spray2Fix High Solids Epoxy Primer (a D001 hazardous waste);

b. Three waste aerosol cans of Delaware Paint-branded aerosol products (D001 hazardous wastes); and

c. Three waste aerosol cans of Sandstrom-branded aerosol products (D001 hazardous wastes).

3.88 The Facility is not able to demonstrate the length of time the universal waste in Building 3007 has been accumulated from the date it becomes a waste or is received by any of the methods listed in 40 C.F.R. § 273.15(c)(1)-(6).

3.89 At the time of the Inspection, the Inspector observed a pallet of waste in Building 3030. According to an inventory provided to the Inspector by the Facility, the pallet contained 20 16-oz waste cans of Sandstrom 28 Gray aerosol paint (a D001 hazardous waste).

3.90 The Facility is not able to demonstrate the length of time the universal waste in Building 3030 has been accumulated from the date it becomes a waste or is received by any of the methods listed in 40 C.F.R. § 273.15(c)(1)-(6).

3.91 At the time of the Inspection, the Inspector observed in Building 3492S two waste aerosol cans of Winzer Tek-Solv (a D001 hazardous waste) that were placed on top of a storage cabinet. The two cans were not in any container and were not individually labeled with any of the phrases identified in 40 C.F.R. § 273.14(f).

3.92 The Facility is not able to demonstrate the length of time the universal waste in Building 3492S has been accumulated from the date it becomes a waste or is received by any of the methods listed in 40 C.F.R. § 273.15(c)(1)-(6).

3.93 Respondent violated 40 C.F.R. § 273.13(e)(1) by failing to contain waste aerosol cans in Building 3007 and Building 3492S in a container that is structurally sound, compatible with the contents of the aerosol cans, lacks evidence of leakage, spillage, or

damage that could cause leakage under reasonably foreseeable conditions, and is protected from sources of heat.

3.94 Respondent violated 40 C.F.R. § 273.14(f) by failing to label the 44 waste aerosol cans in Building 2074, the 13 waste aerosol cans in Building 3007, and the two waste aerosol cans in Building 3492S with any of the phrases identified in 40 C.F.R. § 273.14(f).

3.95 Respondent violated 40 C.F.R. § 273.15(c) by being unable to demonstrate the length of time that the 44 waste aerosol cans in Building 2074, the 13 waste aerosol cans in Building 3007, the 20 waste aerosol cans in Building 3030, and the two waste aerosol cans in Building 3492S had been accumulated.

Failure to Comply with Universal Waste Training Requirements

3.96 40 C.F.R. § 273.16 requires that a small quantity handler of universal waste must inform all employees who handle or have responsibility for managing universal waste. The information provided must describe proper handling and emergency procedures appropriate to the type(s) of universal waste handled at the Facility.

3.97 At the time of the Inspection, the Inspector observed that two Facility personnel responsible for managing universal waste in Building 3703B did not have the required universal waste handling training.

3.98 Respondent violated 40 C.F.R. § 273.16 by failing to ensure that all employees who handle or have responsibility for managing universal waste were properly trained.

Count V
(Failure to comply with Used Oil Requirements)

3.99 40 C.F.R. § 279.22(c)(1) requires that containers used to store used oil must be labeled or clearly marked with the words "Used Oil."

3.100 At the time of the Inspection, the Inspector observed in Building 3496 one small drain pan and one large drain pan that Facility personnel indicated contained used oil. Neither used oil pan was marked with the words "Used Oil."

3.101 Respondent violated 40 C.F.R. § 279.22(c)(1) by failing to label the two containers with the words "Used Oil."

3.102 Under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and 40 C.F.R. Part 19, EPA may assess a civil penalty of not more than $121,275 per day of noncompliance for each violation of a requirement of Subtitle C of RCRA, issue an order requiring compliance, or both.

IV. TERMS OF SETTLEMENT

4.1. Respondent admits the jurisdictional allegations of this Consent Agreement.

4.2. Respondent neither admits nor denies the specific factual allegations contained in this Consent Agreement.

4.3. 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 $233,300 (the "Assessed Penalty").

4.4. Respondent agrees to pay the Assessed Penalty within 30 days of the effective date of the Final Order.

4.5. Payments under this Consent Agreement and the Final Order may be paid by check (mail or overnight delivery), wire transfer, ACH, or online payment. Payment instructions are available at: www.epa.gov/financial/makepayment. Payments made by check must be payable to the order of "Treasurer, United States of America" and delivered to the following address:

Address format for standard delivery (no delivery confirmation requested):	*Address format for signed receipt confirmation (FedEx, DHL, UPS, USPS certified, registered, etc):*
U.S. Environmental Protection Agency P.O. Box 979078 St. Louis, MO 63197-9000	U.S. Environmental Protection Agency Government Lockbox 979078 3180 Rider Trail S. Earth City, MO 63045

Respondent must note on the check the title and docket number of this action. Respondent's Treasury Account Symbol is 21X2020. Inquiries concerning this payment can be made to Tammy Dauma, who can be reached at 907-353-9177 and/or tammy.l.dauma.civ@mail.mil.

4.6. Payment by Respondent may also be made using the Intra Governmental Payment and Collection application (IPAC), using the Agency's Location Code (ALC) 68-01-0727. Please include the Docket Number of this action in the description field of the IPAC. The customer service representative is Craig Steffen, at steffen.craig@epa.gov and/or 513-487-2091.

4.7. Concurrently with payment, Respondent must serve photocopies of the check, or proof of other payment method, described in Paragraph 4.5 on the Regional Hearing Clerk and EPA at the following addresses:

Regional Hearing Clerk U.S. Environmental Protection Agency Region 10 R10_RHC@epa.gov	Tierra Robinson U.S. Environmental Protection Agency Federal Facilities Enforcement Office robinson.tierra@epa.gov

4.8. If Respondent fails to pay any portion of the Assessed Penalty in full by its due date, the entire unpaid balance of the Assessed Penalty shall become immediately due and owing.

4.9. Under Section 3008(c) of RCRA, 42 U.S.C. § 6928(c), failure to take actions within the time specified in this Consent Agreement may subject Respondent to additional civil penalties for each day of continued noncompliance.

4.10. The Assessed Penalty, including any additional costs incurred under Paragraphs 4.8 and 4.9, represents an administrative civil penalty assessed by EPA.

4.11. Respondent shall seek all existing funds to meet the requirements of this Consent Agreement. Failure to obtain adequate funds or appropriations from Congress does not release Respondent from its obligations to comply with RCRA, the applicable regulations thereunder, or this Consent Agreement. Nothing in this Consent Agreement shall be interpreted to require obligations or payment of funds in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341.

4.12. The undersigned representative of Respondent certifies that he or she is authorized to enter into the terms and conditions of this Consent Agreement and to bind Respondent to this document.

4.13. The undersigned representative of Respondent also certifies that, as of the date of Respondent's signature of this Consent Agreement, Respondent has corrected the violation(s) alleged in Part III.

4.14. Except as described in Paragraphs 4.8 and 4.9, each party shall bear its own costs and attorneys' fees in bringing or defending this action.

4.15. Respondent expressly waives any affirmative defenses and the right to contest the allegations contained in this Consent Agreement and to appeal the Final Order and/or to confer

with the EPA Administrator under Section 6001(b)(2) of RCRA, 42 U.S.C. § 6961(b)(2), on any issue of law or fact set forth in this Consent Agreement and the Final Order.

4.16. The provisions of this Consent Agreement and the Final Order shall bind Respondent and its agents, servants, employees, successors, and assigns.

4.17. Respondent consents to the issuance of any specified compliance or corrective action order, to any conditions specified in this consent agreement, and to any stated permit action.

4.18. The above provisions are STIPULATED AND AGREED upon by Respondent and EPA Region 10.

DATED:

11 September 2024

FOR RESPONDENT:

JASON A. COLE, Commander
Colonel, U.S. Army
U.S. Army Garrison Alaska

FOR COMPLAINANT:

EDWARD KOWALSKI

Digitally signed by EDWARD KOWALSKI
Date: 2024.09.12 17:00:59 -07'00'

EDWARD J. KOWALSKI, Director
Enforcement & Compliance Assurance Division
EPA Region 10

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:	)	DOCKET NO. RCRA-10-2024-0130
	)	
United States Army,	)	**FINAL ORDER**
United States Army Garrison- Fort	)	
Wainwright	)	
Fairbanks, Alaska	)	
	)	
Respondent.	)	

1.1. The Administrator has delegated the authority to issue this Final Order to the Regional Administrator of EPA Region 10, who has redelegated this authority to the Regional Judicial Officer in EPA Region 10.

1.2. The terms of the foregoing Consent Agreement are ratified and incorporated by reference into this Final Order. Respondent is ordered to comply with the terms of settlement.

1.3. The Consent Agreement and this Final Order constitute a settlement by EPA of all claims for civil penalties under RCRA for the violations alleged in Part III of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(a), nothing in this Final Order shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of RCRA and regulations promulgated or permits issued thereunder.

1.4. This Final Order shall become effective upon filing with the Regional Hearing Clerk.

IT IS SO ORDERED.

Mednick, Richard

Digitally signed by Mednick, Richard
Date: 2024.09.13 17:07:07 -07'00'

Regional Judicial Officer
EPA Region 10

Certificate of Service

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER, In the Matter of: United States Army, Docket No.: RCRA-10-2024-0130**, was filed with the Regional Hearing Clerk and that a true and correct copy was served on the date specified below to the following addressees:

Logan Senack
Attorney-Advisor
Federal Facilities Enforcement Office
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460, Mailcode 2261A

senack.logan@epa.gov

Tracy R. Carter
Attorney-Advisor
Department of the Army HEADQUARTERS
11th Airborne Division and U.S. Army Alaska
Office of the Staff Judge Advocate
1046 Marks Road #5700,
Ft. Wainwright, Alaska 99703-5700

tracy.r.carter3.civ@army.mil

SALEE PORTER
Digitally signed by SALEE PORTER
Date: 2024.09.13 20:07:22 -07'00'

Regional Hearing Clerk
EPA Region 10