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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BOULEVARD
LENEXA, KANSAS 66219

IN THE MATTER OF:)
)
United States Department of Veterans Affairs)
Kansas City VA Medical Center)
4801 East Linwood Boulevard)
Kansas City, MO 64128)
)
Respondent.)
RCRA ID: MO0360010292)
)
)
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-07-2014-0027

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. § 6903(15).

Statutory and Regulatory Framework

4. The State of Missouri 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 Missouri has adopted by reference the federal regulations cited herein at pertinent parts in the Missouri Code of State Regulations (C.S.R.) in Title 10, Division 25. 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 Missouri 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 \$37,500 per day are authorized for violations of Subchapter III of RCRA that occur after January 12, 2009. Based upon the facts alleged in this Consent Agreement and Final Order and upon those factors which Complainant must consider pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), as discussed in the RCRA Civil Penalty Policy issued by EPA in June 2003, the Complainant and Respondent agree to the payment of a civil penalty pursuant to Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), and to take the actions required by the Final Order, for the violations of RCRA alleged in this Consent Agreement and Final Order.

General Factual Allegations

6. Respondent's facility, which is the subject of this action, is located at 4801 East Linwood Boulevard, Kansas City, Missouri 64128 ("Facility"). The Facility is a general medical facility, providing primary and tertiary patient care. Oncology treatment is performed at the Facility, as well as pharmaceutical, psychological, and general medicine care. The Facility was opened in October of 1952, and is located on a 48 acre tract of land on the intersection of Linwood and Van Brunt Boulevards in Kansas City. Operations at the Facility are conducted 24 hours per day, seven days per week by 1,400 employees.

7. As part of its operations, the Facility generates enough hazardous waste each month to be classified as a Large Quantity Generator (LQG) pursuant to 10 C.S.R. 25-5.262.

8. The regulations for determining whether a waste is a solid and/or hazardous waste are set forth at 10 C.S.R. 25-4.261, which incorporate by reference the regulations at 40 C.F.R. Part 261.

9. Respondent has been assigned a RCRA facility identification number of MO0360010292.

10. On February 8, 2012, an EPA Region 7 representative conducted a Compliance Evaluation Inspection on the Facility. In the course of the inspection, the inspector from EPA Region 7 documented several instances of mismanagement of hazardous waste at the facility.

Violations

11. Complainant hereby states and alleges that Respondent has violated RCRA and federal and state regulations promulgated there under, as follows:

Count 1

FAILURE TO MAKE A HAZARDOUS WASTE DETERMINATION

12. The allegations stated in paragraphs 1 through 10 are re-alleged and incorporated as if fully set forth herein.

13. The regulations at 10 C.S.R. 25-5.262(1), and by incorporation 40 C.F.R. § 262.11, require that a person who generates solid waste must determine if that waste is a hazardous waste.

14. At the time of the EPA inspection it was determined that respondent failed to make a hazardous waste determination for the following flows of solid waste, in violation of the regulations at 10 C.S.R. 25-5.262(1), and by incorporation 40 C.F.R. § 262.11:

In-Patient Pharmacy

- 4 brown paper bags of waste medication. (size of each bag 12 x 7 x 17 inches)
- 1 brown paper bag of waste medication (labeled with the words : "Aerosol Canister Only")
- 1 brown paper bag of waste medication (labeled with the words "Expired Non-Pills")
- 1 brown paper bag of waste medication (labeled with the words "Destroy Non-Pills")
- 1 brown paper bag of waste medication (labeled with the words "Expired and Destroy Pills Only")
- 2 red 3-gallon plastic bins of waste medication (various medications collected)
- 2 white plastic bins: one 3-gallon and 1 5-gallon containers of waste medication (various medications collected)
- 1 less than ¼ full blue 55-gallon container of waste aerosol inhalers (labeled with the words "Non-hazardous Waste")

- 1 red 5-gallon hazardous waste satellite accumulation container of RCRA hazardous medication (container was open and not marked with the beginning date of accumulation)

Patient Floors

- Waste medication generated from the patient care floors include expired, partially used, and patient contacted medication (ointments, creams, pills, oral liquid, nicotine patches, etc.).

Chemotherapy Clinic

- 2 spent chemotherapy hood filters generated per year from the service of the one hood used for chemotherapy drug preparation activities.

Research Lab F2-105

- 1 half-full four-liter container of labeled with the word "Toluene."

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 10 are re-alleged and incorporated as if fully set forth herein.

16. Section 3005 of RCRA, 42 U.S.C. § 6925, R.S.Mo. 260.390.1(1), and the regulations at 10 C.S.R. 25-7.270 incorporating by reference 40 C.F.R. § 270.1(b), 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.

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

18. The regulations at 10 C.S.R. 25-5.262(1), which incorporate by reference 40 C.F.R. § 262.34(a), allow a generator to accumulate hazardous waste in containers on-site for up to ninety days without a permit or without interim status, provided the conditions listed in 40 C.F.R. § 262.34(a)(1)-(4) 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 meet the exception to the regulation that allows generators to store hazardous waste at their facility for up to ninety (90) days without a permit or interim status so long as they meet hazardous waste regulatory requirements.

Failure to Comply with Generator Requirements

Failure to Close Hazardous Waste Storage Containers

20. At the time of the inspection, the EPA inspector observed that Microbiology Hazardous Waste Storage Area (Room M2-443) contained twenty-seven 5-gallon hazardous waste storage containers of Methicillin-Resistant Staphylococcus Aureus (MRSA) waste. All of these containers were open, in violation of 10 C.S.R. 25-5.262(1) incorporating 40 C.F.R. § 262.34(a)(1) referencing 40 C.F.R. § 265.173(a) .

Failure to Label Hazardous Waste Storage Containers

21. At the time of the inspection, the EPA inspector observed that the Pathology Hazardous Waste Area (Room M1-408) contained: one 1-gallon hazardous waste storage container of waste methanol labeled with the words "Toxic Waste from the Hemo Stain", two hazardous waste storage boxes of carbon filters labeled with the words "Used with Xylene", one 2.5-litre hazardous waste storage container of waste methanol fixative labeled with the words "Diff-Quick." None of the containers were marked with the words "Hazardous Waste" in violation of 10 C.S.R. 25-5.262(1) incorporating 40 C.F.R. § 262.34(a)(3).

Failure to Mark Hazardous Waste Storage Containers with the Date of Accumulation

22. The regulations at 10 C.S.R. 25-5.262(1), and by incorporation 40 C.F.R. § 262.34(a)(2), require that the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container. At the time of the inspection, the EPA inspector observed that none of the waste containers described in paragraph 21 above, located in the Pathology Hazardous Waste Area (Room M1-408), were marked with an accumulation date as required by 10 C.S.R. 25-5.262(1) incorporating 40 C.F.R. § 262.34(a)(2).

Failure to Close Hazardous Waste Accumulation Container

23. At the time of the inspection of the In-Patient Pharmacy, the inspector observed one hazardous waste satellite accumulation container of hazardous waste medication labeled with the words "Hazardous Waste Only To Be Turned Into Safety Office." This container was not closed as required by 10 C.S.R. 25-5.262(1) incorporating 40 C.F.R. § 262.34(c)(1)(i) referencing 40 C.F.R. § 265.173(a).

Failure to Identify the Contents and Beginning Date of Hazardous Waste Satellite Accumulation Containers

24. At the time of the inspection of the In-Patient Pharmacy, the inspector observed one hazardous waste satellite accumulation container of hazardous waste medication labeled with the words "Hazardous Waste Only To Be Turned Into Safety Office" which was not dated as required by 10 CSR 25-5.262(1) incorporating 40 CFR 262.34(c)(1)(ii).

25. At the time of the inspection of the Pathology Lab Room (M1-484), the EPA

inspector observed one gallon hazardous waste accumulation container of waste methanol labeled with the words "Hazardous Waste Methanol" which was not marked with the beginning date of accumulation as required by 10 CSR 25-5.262(1) incorporating 40 CFR 262.34(c)(1)(ii).

26. At the time of the inspection of the Research Lab (F3-107), the EPA inspector observed one 500ml hazardous waste satellite accumulation container of waste formaldehyde labeled with the words "Formaldehyde 4%" and one 4 liter hazardous waste satellite accumulation container of waste acetic acid labeled with the word "Developer." Neither container was marked with the beginning date of collection as required by 10 CSR 25-5.262(1) incorporating 40 CFR 262.34(c)(1)(ii).

Failure to Inspect the Hazardous Waste Storage Area

27. At the time of the inspection of the Pathology Hazardous Waste Storage area (Room M1-408), the inspector asked if weekly hazardous waste inspections were conducted on all 27 hazardous waste storage containers in Room M1-408. Respondent's representative stated that this had not occurred. The regulations at 10 C.S.R. 25-5.262(2)(C)2.C(I) and (II), referencing 40 C.F.R. § 265.174 and 265.15(d), require such inspections, therefore, the Respondent was not following these regulations, as required. 40 C.F.R. § 262.34(a)(4) requires that a generator comply with 40 C.F.R. Part 265. Therefore, Respondent was not in compliance with 40 C.F.R. § 262.34(a)(4).

28. During the observation of the EPA inspector during inspection of the Central Hazardous Waste Storage Area (Building 38), and the inspector's conversations with Respondent's representative, it was determined that weekly hazardous waste inspection records from calendar year 2010 and the January 2011 to October 2011 calendar months were not maintained as required by 10 C.S.R. 25-5.262(2)(C)2.C(1) and (II) referencing 40 C.F.R. § 265.174 and 265.15(d). 40 C.F.R. § 262.34(a)(4) requires that a generator comply with 40 C.F.R. Part 265. Therefore, Respondent was not in compliance with 40 C.F.R. § 262.34(a)(4).

Failure to Implement a Hazardous Waste Training Program

29. At the time of the inspection the Respondent was an LQG. Based on the Facility's generator status, the inspector asked Respondent's representative if the Respondent had a hazardous waste training program in place for its employees. Respondent's representative stated Respondent does not have a hazardous waste training program. 40 C.F.R. § 265.51 requires a contingency plan for LQG facilities, and 40 C.F.R. § 262.34(a)(4) requires that a generator comply with 40 C.F.R. Part 265. Therefore, Respondent was not in compliance with 40 C.F.R. § 262.34(a)(4).

Failure to Maintain Hazardous Waste Contingency Plan

30. At the time of the inspection, the Respondent's Facility was an LQG. Based on the Facility's generator status at the time of the inspection, the inspector asked Respondent's representative if the Respondent had a contingency plan as required by 40 CFR 265.51. Respondent's representative stated that it did not. 40 C.F.R. § 265.51 requires a

contingency plan for LQGs, and 40 C.F.R. § 262.34(a)(4) requires that a generator comply with 40 C.F.R. Part 265. Therefore, Respondent was not in compliance with 40 C.F.R. § 262.34(a)(4).

Storage over 90 Days

31. After the inspections, the EPA inspector reviewed the management of a five gallon hazardous waste storage container of MRSA waste located in Microbiology Waste Storage Area. The container was marked with storage date of July 21, 2011. Therefore, the container exceeded the 90 day limit allowed by 10 C.S.R. 25-5.262(1), which incorporate by reference 40 C.F.R. § 262.34(a).

32. After the inspections, the EPA inspector reviewed the management of a ten gallon hazardous waste storage container of waste lead aprons located in Central Hazardous Waste Storage Area. The container was marked with storage date of November 3, 2011. Therefore, the container exceeded the 90 day limit allowed by 10 C.S.R. 25-5.262(1), which incorporate by reference 40 C.F.R. § 262.34(a).

33. Because respondent failed to comply with the generator requirements as set forth in Count 2 herein, Respondent was not authorized to store hazardous waste at its facility for any length of time without a permit or interim status, and therefore was operating a hazardous waste storage facility without a permit.

CONSENT AGREEMENT

34. Respondent and EPA agree to the terms of this Consent Agreement and Final Order and Respondent agrees to comply with the terms of the Final Order portion of this Consent Agreement and Final Order.

35. Respondent admits the jurisdictional allegations of this Consent Agreement and Final Order and agrees not to contest EPA's jurisdiction in this proceeding or any subsequent proceeding to enforce the terms of the Final Order portion of this Consent Agreement and Final Order set forth below.

36. Respondent neither admits nor denies the factual allegations and legal conclusions set forth in this Consent Agreement and Final Order.

37. Respondent waives any right to contest the allegations set forth herein and its right to appeal the proposed Final Order portion of the Consent Agreement and Final Order.

38. Respondent and Complainant agree to conciliate the matters set forth in this Consent Agreement and Final Order without the necessity of a formal hearing and to bear their respective costs and attorney's fees.

39. Nothing contained in the Final Order portion of this Consent Agreement and Final Order shall alter or otherwise affect Respondent's obligation to comply with all applicable

federal, state, and local environmental statutes and regulations and applicable permits.

40. This Consent Agreement and Final Order addresses all civil administrative claims for the RCRA violations identified above. Complainant reserves the right to take any enforcement action with respect to any other violations of RCRA or any other applicable law.

41. The effect of settlement described in the Consent Agreement and Final Order is conditioned upon the accuracy of Respondent's representations to EPA, as memorialized in the paragraph below.

42. Respondent certifies that by signing this Consent Agreement and Final order that to best of its knowledge, Respondent's Facility is in compliance with all requirements of RCRA, 42 U.S.C. § 6901 *et. seq.* and all regulations promulgated thereunder.

43. The undersigned representative of Respondent certifies that he or she is fully authorized to enter the terms and conditions of this Consent Agreement and Final Order and to execute and legally bind Respondent to it.

Penalty and Supplemental Environmental Project (SEP)

44. Respondent agrees that, in settlement of the claims alleged in this Consent Agreement and Final Order, Respondent shall pay a penalty of Twenty Seven Thousand Seven Hundred Thirty dollars (\$27,730) as set forth in Paragraph 1 of the Final Order portion of this Consent Agreement and Final Order below, and shall perform a Supplemental Environmental Project (SEP) as set forth in this CAFO. Respondent shall spend no less than Ninety Thousand Three Hundred Thirty-Five Dollars (\$90,335) on this SEP.

45. 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.

46. Respondent shall complete the following SEP: Respondent will replace approximately 437 fluorescent light fixtures in stairwells throughout the Facility with LED fixtures which have sensors. The lighting and controls will be installed within twelve months after the effective date of this Consent Agreement and Final Order. This SEP will allow for reduced electrical usage, thus reducing greenhouse gas emissions. This SEP shall be performed in accordance with the requirements of this CAFO and the SEP Work Plan which is attached to this document and is incorporated by reference.

47. Within 12 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 SEPs as implemented, including itemized costs;

b. A description of any problems encountered in implementation of the projects and the solution thereto;

c. A 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.

48. 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.

49. 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.

50. The SEP Completion Report shall be submitted on or before the due date specified in Paragraph 48 to:

Berla Jackson-Johnson
Environmental Protection Agency
Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219.

51. 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.*

52. 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.

Effective Date

53. This Consent Agreement and Final Order shall be effective upon filing of the Final Order by the Regional Hearing Clerk for EPA, Region 7. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

Reservation of Rights

54. Notwithstanding any other provision of this Consent Agreement and Final Order, EPA reserves the right to enforce the terms of the Final Order portion of this Consent Agreement and Final Order by initiating a judicial or administrative action under Section 3008 of RCRA, 42 U.S.C. § 6928, and to seek penalties against Respondent in an amount not to exceed Thirty-Seven Thousand Five Hundred Dollars (\$37,500.00) per day per violation pursuant to Section 3008(c) of RCRA, for each day of non-compliance with the terms of the Final Order, or to seek any other remedy allowed by law.

55. 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 Consent Agreement and Final Order.

56. Except as expressly provided herein, nothing in this Consent Agreement and Final Order 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.

57. Notwithstanding any other provisions of the Consent Agreement and Final Order, 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.

58. The headings in this Consent Agreement and Final Order are for convenience of reference only and shall not affect interpretation of this Consent Agreement and Final Order.

59. The provisions of this Consent Agreement and Final Order 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) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g), and according to the terms of this Consent Agreement and Final Order, IT IS HEREBY ORDERED THAT:

A. Payment of Civil Penalty

1. Within sixty (60) days of the effective date of this Consent Agreement and Final Order, Respondent will pay a civil penalty of Twenty-seven Thousand Seven Hundred Thirty dollars (\$27,730).

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 confirmation shall simultaneously be sent to the following:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219; and

Raymond C. Bosch, Attorney
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219

4. Respondent is ordered to perform the SEP as set forth in this CAFO.

B. Compliance Action

5. Within sixty (60) days of the effective date of this Consent Agreement and Final Order, Respondent shall take the actions specified below.

6. Respondent shall submit documentation of all hazardous waste determinations performed at Respondent's Facility from February 10, 2012 to present.

7. Respondent shall submit a copy of its standard operating procedure (SOP) for assuring that all solid wastes generated at its Facility undergo a hazardous waste determination. This SOP shall also demonstrate how the facility will properly manage and dispose of all hazardous wastes generated by the facility.

8. Respondent shall implement and maintain the SOP, described above, for at least one year after the effective date of this Consent Agreement and Final Order.

9. Respondent shall provide on a quarterly basis, for a period of one year after the effective date of this Consent Agreement and Final Order, photographic evidence that the representative sample of hazardous waste accumulation containers are properly closed, labeled, and dated.

10. Respondent shall provide copies of all manifests for hazardous wastes shipped off site from February 10, 2012 to the effective date of this Consent Agreement and Final Order.

11. Respondent shall submit all documentation generated to comply with the requirements as set forth in this Final Order to the following mailing address or electronically to the e-mail address set forth below:

Berla Jackson-Johnson
AWMD/WEMM
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219
Jackson-Johnson.Berla@epa.gov

C. Parties Bound

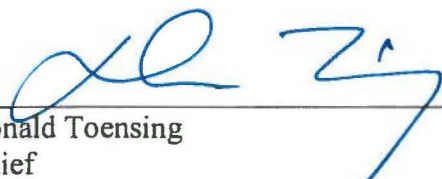
12. The Final Order portion of this Consent Agreement and Final Order shall apply to and be binding upon Respondent and Respondent's agents, successors and/or assigns. Respondent shall ensure that all contractors, employees, consultants, firms, or other persons or entities acting for Respondent with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

COMPLAINANT:

U.S. ENVIRONMENTAL PROTECTION AGENCY

10-29-14

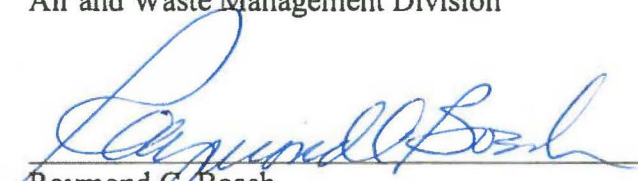
Date



Donald Toensing
Chief
Waste Enforcement and Materials Management
Branch
Air and Waste Management Division

Oct 29, 2014

Date



Raymond C. Bosch
Office of Regional Counsel

United States Department of Veterans Affairs
Kansas City VA Medical Center
Docket No. RCRA-07-2014-0027

FOR RESPONDENT:

UNITED STATES DEPARTMENT OF
VETERANS AFFAIRS

Grant D. Ball, Director
Name and Title

9/9/14
Date

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

11-14-2014
Date

Karina Borromeo
Karina Borromeo
Regional Judicial Officer

Supplemental Environmental Project

Kansas City Veteran Affairs Medical Center

September 2013

Introduction

The Kansas City Veteran Affairs Medical Center (KC-VAMC) agrees to undertake the following environmentally beneficial Supplemental Environmental Project (SEP). The purpose of this SEP is to obtain environmental improvements that would not have otherwise occurred without the settlement incentives provided by the EPA Supplemental Environmental Projects Policy dated April 10, 1998. The proposed SEP is the installation of occupancy controlled LED lighting in the stairwells. 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 KC-VAMC, which currently uses always-on fluorescent lighting in its numerous stairwells. KC-VAMC recognizes its responsibility to properly manage greenhouse gases generated by its normal operations. To meet this obligation, KC-VAMC proposes to install LED lighting in the stairwells with occupancy controls.

The Need for and Role of the Proposed SEP

All stairwells are currently continuously lit (24/7), even if they are unoccupied or naturally lit. This wasted electricity generates significant greenhouse gases. The proposed lighting system is engineered and designed to be on **only** when the stairwell is being used.

Specifics of the Proposed SEP

The objective of the proposed SEP encompasses replacing approximately 437 fluorescent light fixtures in stairwells throughout the Kansas City VA with LED fixtures with sensors. Lighting and controls will be installed within twelve months after the final agreement is signed, allowing for reduced electrical usage, thus reducing greenhouse gas emissions.

The proposed lighting system will provide years of service (estimated at 10-15 years) greatly reducing the amount of energy used and greenhouse gas generated.

Justification for SEP

KC-VAMC has the capability to execute all facets of the proposed SEP, while meeting the requirements and objectives of the SEP policy. The project is not inconsistent with any underlying statutes.

SEP Budget Breakdown

For the project cost breakdown see Attachment A. There are no anticipated annual recurring costs.

Attachment A.

CONSTRUCTION COST ESTIMATE BREAKDOWN										
Replace fluorescent stairwell light fixtures with LED on automatic dimming					ADDRESS	VAMC				
PROJECT NO					PROPOSED TOTAL CONTRACT PRICE	\$214,508				
REQUEST FORM 2237:					PROJECT NUMBER: 589-361	WORK LOCATION:				
ITEM	MATERIAL COST				LABOR COST				LABOR BURDEN 45%	LINE TOTAL
	UNIT OF MEASURE	QUANTITY	UNIT	TOTAL	UNIT OF MEASURE	QUANTITY	AVERAGE RATE	TOTAL		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
			EQUIPMENT	0.00				0.00	0.00	0.00
Demo fluorescent fixture	ea			0.00	ea	278	30.00	8340.00	3753.00	12093.00
New 4' fixture for 2 tube existing	ea	157	389.00	61073.00	ea	157	45.00	7065.00	3179.25	71317.25
New 2' fixture for 1 tube existing	ea	83	295.00	24485.00	ea	83	45.00	3735.00	1680.75	29900.75
New 2' fixture for 2' existing	ea	38	295.00	11210.00	ea	38	45.00	1710.00	769.50	13689.50
Install dimming sensor	ea	150	60.00	9000.00	ea	150	30.00	4500.00	2025.00	15525.00
Delivery and set up	jb			0.00	jb	1	7000.00	7000.00	3150.00	10150.00
Lamp Disposal	ea	1	300.00	300.00				0.00	0.00	300.00
Waste Handling/recycling				0.00	jb	1	13200.00	13200.00	5940.00	19140.00
				0.00				0.00	0.00	0.00
				0.00				0.00	0.00	0.00
				0.00				0.00	0.00	0.00
				0.00				0.00	0.00	0.00
				0.00				0.00	0.00	0.00
				0.00				0.00	0.00	0.00
				0.00				0.00	0.00	0.00
				0.00				0.00	0.00	0.00
				0.00				0.00	0.00	0.00
				0.00				0.00	0.00	0.00
				0.00				0.00	0.00	0.00
				0.00				0.00	0.00	0.00
				0.00				0.00	0.00	0.00
				0.00				0.00	0.00	0.00
				0.00				0.00	0.00	0.00
SUB-TOTAL				106068.00	1			45550.00	20497.50	172115.50

For Government Use Only

SUMMARY OF COSTS

TOTAL MATERIAL COSTS		\$	<u>106,068.00</u>
TOTAL LABOR COSTS		\$	<u>45,550.00</u>
TOTAL OTHER DIRECT COSTS		\$	<u>20,497.50</u>
	TOTAL DIRECT COSTS	\$	<u>172,115.50</u>
OVERHEAD	10%	\$	<u>17,211.55</u>
	SUBTOTAL	\$	<u>189,327.05</u>
PROFIT	10%	\$	<u>18,932.71</u>
	SUBTOTAL	\$	<u>208,259.76</u>
BOND	3.00%	\$	<u>6,247.79</u>
	TOTAL PRICE	\$	<u>214,507.55</u>

DATE: 4/17/2014

FIRM NAME N/A

TITLE: Stairwell LED Lighting

BY Brett Twaddle/General Engineer
(SIGNATURE)

10	40 CFR 265.16	Hazardous Waste training program not implemented	Medical Center will identify staff and conduct training as outlined by 40CFR 265.16	4/30/2012
11	40 CFR 265.51	Hazardous Waste Contingency Plan not maintained	Medical Center will contract with vendor to develop a site-specific Integrated Contingency Plan as outlined in 40 CFR 265.51.	5/31/2012
12	10 CSR 25-16-223(1) ref 40 CFR 273.13(c)	The length of time of universal waste - lamp accumulation not demonstrated		
		Universal Waste Lamp Shed: 99 universal waste storage containers (one container was dated)	All waste lamps have been transferred to waste recycling boxes and the boxes properly labeled. Staff have been instructed to date waste lamp storage boxes when the first lamp is placed in the box.	COMPLETED 2/10/2012
13	10 CSR 25-16-273(1) ref 40 CFR 273.16	Universal waste management training not provided to employees who manage universal waste	Formal classroom Universal waste training will be provided initially and annually to staff who manage universal waste. In the interim staff have received verbal and written instruction on how to properly manage waste lamps.	Interim training was provided 2/10/2012 and 3/7/2012. Formal training will be completed by 3/31/2012.
14	10 CSR 25-16-273(1) ref 40 CFR 273.13(d)(1)	Universal waste lamps not stored in a closed container		
		Universal Waste Lamp Shed: 100 containers of universal waste lamps	All waste lamps stored in open containers have been transferred to waste recycling boxes and the boxes closed. Staff have been instructed to keep boxes closed at all times except when placing lamps in the boxes.	COMPLETED 3/7/2012
15	10 CSR 25-16-273(1) ref 40 CFR 273.14(e)	Universal waste - lamps not labeled "Universal Waste - Lamps," "Waste Lamps" or "Used Lamps"		
		Universal Waste Lamp Shed: 87 containers of universal waste lamps (13 containers were labeled)	All waste lamps stored in open containers have been transferred to waste recycling boxes and the boxes closed. Staff have been instructed in the proper labeling of the containers.	COMPLETED 3/7/2012

IN THE MATTER OF United States Department of Veterans Affairs; Kansas City VA Medical Center, Respondent
Docket No. RCRA-07-2014-0027

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Order was sent this day in the following manner to the addressees:

Copy by email to Attorneyfor Complainant:

bosch.raymond@epa.gov

Copy by email to Respondent:

Michael.Anfang@va.gov

Dated: 11/17/14


Kathy Robinson
Hearing Clerk, Region 7