

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

IN THE MATTER OF:)	Docket No. RCRA-10-2022-0122
)	
)	
The United States Department of the Air Force)	
)	EXPEDITED SETTLEMENT
Respondent)	AGREEMENT AND
)	FINAL ORDER
Joint Base Elmendorf-Richardson and)	
673d Air Base Wing)	
Anchorage, Alaska)	
)	
EPA ID Number: AK8570028649)	
)	
Facility)	
_____)	

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. 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.
3. United States Air Force Joint Base Elmendorf-Richardson (“Respondent”) is the owner or operator of the facility at 11735 Vandenberg Avenue, JBER, Alaska 99506 (“Facility”). The EPA inspected the Facility on March 22, 2021. Respondent is a Large Quantity Generator of Hazardous Waste and a Large Quantity Handler of Universal Waste.
4. 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, the EPA may enforce the federal hazardous waste program in the State of Alaska. The EPA alleges that Respondent violated the following requirements of the RCRA.

a. Violation 1: Failure to Label Universal Waste Lamps

Under 40 C.F.R. § 273.34(e), handlers of universal waste must label or mark each lamp or a container or package in which such lamps are contained with one of the following phrases: “Universal waste – lamps,” “Waste Lamps” or “Used Lamps.”

At the time of EPA's March 22-25, 2021 inspection, the following universal waste lamps were not properly labeled:

- 64 waste lamps in Building 1 USARAK HQ/ Room B50;
- 8 waste lamps in Building 10471; and
- 29 waste lamps in Building 600.

By failing to properly label universal waste lamps, Respondent violated 40 C.F.R. § 273.34(e).

b. Violation 2: Failure to demonstrate the length of time that universal waste has been accumulated

Under 40 C.F.R. § 273.35(c), a large quantity handler of 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 received. The handler may make this demonstration by: (1) Placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received; (2) Marking or labeling the individual item of universal waste with the date it became a waste or was received; (3) Maintaining an inventory system on-site that identifies the date the universal waste being accumulated became a waste or was received; (4) Maintaining an inventory system on-site that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received; (5) Placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received; or (6) Any other method which clearly demonstrates the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

At the time of the inspection, Respondent was unable to demonstrate the length of time that the following universal waste lamps had been accumulated at the Facility:

- 64 waste lamps in Building 1 USARAK HQ/ Room B50;
- 8 waste lamps in Building 10471; and
- 29 waste lamps in Building 600.

Based on these findings, Respondent violated 40 C.F.R. § 273.35(c).

c. Violation 3: Failure to Properly Store Universal Waste

Under 40 C.F.R. § 273.33(d)(1), a large quantity handler of universal waste must contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.

At the time of the inspection, the inspector observed the following lamps that were not properly stored at the Facility:

- Three open boxes containing 64 waste lamps in Building 1 USARAK HQ/ Room B50;
- 48 unpackaged waste lamps in Building 6263;
- 8 waste lamps stored improperly in Building 10471;
- 3 open boxes containing 26 waste lamps in Building 11550; and
- 29 waste lamps in Building 600.

By failing to properly store universal waste lamps at the Facility, Respondent violated 40 C.F.R. § 273.33(d)(1).

d. Violation 4: Failure to Comply with Universal Waste Training Requirements

Under 40 C.F.R. § 273.36, a large quantity handler of universal waste must ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relative to their responsibilities during normal facility operations and emergencies.

At the time of the inspection, both the primary and alternate waste managers for Building 11550 had not received universal waste training.

By failing to comply with universal waste employee training requirements, Respondent violated 40 C.F.R. § 273.36.

5. 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 \$6,000. The attached Penalty Calculation Worksheet is incorporated by reference.
6. 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.
7. Respondent waives its rights to confer with the Administrator pursuant to section 6001(b)(2) of RCRA, 42 U.S.C. § 6961(b)(2).
8. Within 30 days of the effective date of this Agreement, Respondent shall pay a civil penalty of \$6,000 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
Government Lockbox 979077
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, Missouri 63101

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

Payment by Respondent may also be made using the Intra Governmental Payment and Collection (IPAC) application, 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 Peter Hendrickson, 513-487-2086.

9. Concurrent with payment, Respondent must serve photocopies of the check, or proof of other payment method, described in Paragraph 8 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

Jessica Schlafstein
U.S. Environmental Protection Agency
Region 10
Schlafstein.Jessica@epa.gov

10. 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.
11. 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.
12. Each party shall bear its own costs and fees, if any.
13. This Agreement and Final Order shall constitute full settlement of the civil claims alleged herein.
14. 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.
15. This Agreement is binding on the parties signing below and, in accordance with 40 C.F.R. § 22.31(b), is effective upon filing 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: 25 February 2022

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: United States Air Force Joint Base Elmendorf-Richardson, Docket No.: RCRA-10-2022-0122, 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:

Jessica Schlafstein
U.S. Environmental Protection Agency
Federal Facility Enforcement Office
1200 Pennsylvania Ave., NW, MC 2261A
Washington, DC 20460
Schlafstein.Jessica@epa.gov

Colonel Kirsten G. Aguilar, USAF
Joint Base Elmendorf-Richardson and 673d Air Base Wing
10471 20th Street, Suite 139
Joint Base Elmendorf-Richardson, Alaska 99506
Kirsten.aguilar@us.af.mil

DATED this _____ day of _____, 2022.

TERESA YOUNG
Regional Hearing Clerk
EPA Region 10