

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:	)	DOCKET NO. RCRA-10-2026-0182
	)	
United States Air Force,	)	EXPEDITED SETTLEMENT
	)	AGREEMENT
Respondent.	)	
	)	
Fairchild Air Force Base	)	
Washington 99011	)	
	)	
Facility.	)	

I. STATUTORY AUTHORITY

1.1. This Expedited Settlement 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 3006(b) of RCRA, 42 U.S.C. § 6926(b), EPA granted the State of Washington final authorization to administer and enforce a hazardous waste program and to carry out such program in lieu of the federal program.

1.3. Pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), EPA may enforce the federally-approved Dangerous Waste program.

1.4. 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.

1.5. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), notification of

this action has been given to the Washington Department of Ecology.

1.6. 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 Fairchild Air Force Base (“Respondent”) agrees to issuance of, the Final Order attached to this Expedited Settlement 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 Expedited Settlement 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 In 1976, Congress enacted RCRA, amending the Solid Waste Disposal Act, to regulate hazardous waste management. The Hazardous Waste and Solid Waste Amendments of 1984 (HSWA) provides additional authority under RCRA to regulate hazardous wastes. Under Subtitle C of RCRA, RCRA Section 3001 *et seq.*, 42 U.S.C. § 6921 *et seq.*, the EPA has the authority to identify and list hazardous wastes. RCRA Subtitle C also authorizes the EPA to

regulate hazardous waste generators, transporters, exporters, and the owners and operators of hazardous waste treatment, storage, and disposal facilities. The EPA promulgated federal regulations to implement RCRA Subtitle C, which are set forth at 40 C.F.R. Parts 260-270, 273, and 279.

3.2 The United States Air Force (“Respondent”) is and has been the “Owner” and “Operator” of the Fairchild Air Force Base (“Facility”), located approximately 12 miles southwest of Spokane, Washington. 40 CFR § 260.10.

3.3 Respondent generates at least 2,200 pounds of dangerous waste in a calendar month at the Facility, and the Facility is a large quantity generator (“LQG”) for purposes of the EPA approved and authorized Washington Dangerous Waste Management Program. WAC 173-303-200 (2014).

3.4 For a LQG to accumulate dangerous waste onsite for up to 90 days after the date of generation without a permit, that LQG must place dangerous waste in containers and must satisfy the requirements of WAC 173-303-630(2)-(6), (8)-(10) (2014) and 40 CFR part 265 subparts AA, BB, and CC. WAC 173-303-200(1)(b)(i) (2014).

3.5 At all times relevant to this ESA, Respondent did not have a ‘dangerous waste permit’ or ‘interim status,’ as those terms are used in Washington’s Dangerous Waste Regulations in Chapter 173-303 WAC (2014), and therefore could only accumulate or store hazardous waste at the Facility in conformance with the applicable exemption requirements of WAC 173-303-200 (2014). WAC 173-303-170(3)(a) (2014); *see also* WAC 173-303 600(2), (3)(d) (2014).

3.6 On March 26-27, 2024, the EPA conducted an inspection of the Facility pursuant to Section 3007 of RCRA, 42 U.S.C. § 6927, to determine Respondent's compliance with Washington's dangerous waste regulations (the "Inspection").

Failure to Properly Label or Mark Dangerous Waste Containers

3.7 The regulations at WAC 173-303-200(1)(d) (2014) require LQGs to label or mark containers of dangerous waste with the words "dangerous waste" or "hazardous waste" while they accumulate on site. These regulations also require LQGs to mark with a label or sign containers of dangerous waste with hazard/risk indicators to identify the major risk(s) associated with the waste in the container for employees, emergency response personnel and the public.

3.8 According to analytical data provided by Respondent, bead blast media used in Facility Building 2050 failed TCLP for Barium (D005), Cadmium (D006), and Chromium (D007), and was therefore a dangerous waste. WAC 173-303-090(8)(c) (2014).

3.9 At the time of the Inspection, in Facility Building 2050, a shop vac contained bead blast media, a dangerous waste. The shop vac was not labeled with the words "Dangerous Waste" or "Hazardous Waste" and was not marked with a hazard/risk indicator.

3.10 At the time of the Inspection, in Facility Building 2050, a container attached to aqueous parts washer contained a skimmer solution, which was confirmed by site representatives as contaminated with chromium, that was not labeled with the words "Dangerous Waste" or "Hazardous Waste" and was not marked with a hazard/risk indicator.

3.11 At the time of the Inspection, in the HazMat Storage Area of Facility Building 2451, dangerous waste located on a pallet was not labeled with the words "Dangerous Waste" or "Hazardous Waste" and was not marked with a hazard/risk indicator.

3.12 At the time of the Inspection, at Facility Building 9000, a container of waste stain approximately half a liter in size held dangerous waste as confirmed by site representatives that was labeled as “waste container.” The container was not labeled with the words “Dangerous Waste” or “Hazardous Waste” and was not marked with a hazard/risk indicator.

3.13 Respondent violated the regulations at WAC 173-303-(200)(1)(d) (2014) when Respondent failed to mark or label containers of dangerous waste with the words “dangerous waste” or “hazardous waste,” and when Respondent failed to identify the major risk(s) associated with dangerous waste accumulated in containers at the Facility.

Failure to Mark Containers with an Accumulation Start Date

3.14 The regulations at WAC 173-303-200(1)(c) (2014) require LQGs to mark or label containers of dangerous waste with the date upon which each period of accumulation began.

3.15 At the time of the Inspection, in the HazMat Storage Area of Facility Building 2451, dangerous waste located on a pallet was not marked with the date upon which the period of accumulation began.

3.16 At the time of the Inspection, in the Central Accumulation Area of Facility Building 2411, a 10-gallon container of aerosol cans, a dangerous waste, was not marked with the date upon which the period of accumulation began.

3.17 Respondent violated the regulations at WAC 173-303-(200)(1)(c) (2014) when Respondent failed to mark or label containers of dangerous waste with the date upon which each period of accumulation began.

Failure to Close Dangerous Waste Containers

3.18 The regulations at WAC 173-303-200(1)(c) (2014) require LQGs to comply with the regulations at WAC 173-303-630(5)(a) which require LQGs to always keep containers of dangerous waste closed except when necessary to add or remove waste.

3.19 At the time of the Inspection, in Facility Building 2050, a container attached to aqueous parts washer contained a skimmer solution, which was confirmed by site representatives as contaminated with chromium, that was open.

3.20 At the time of the Inspection, at Facility Building 9000, a container of waste stain approximately half a liter in size held dangerous waste as confirmed by site representatives that was labeled as “waste container” that was open.

3.21 Respondent violated the regulations at WAC 173-303-(630)(5)(a) (2014) when Respondent failed to keep containers of dangerous waste closed except when necessary to add or remove waste.

Failure to Inspect Central Accumulation Areas of Dangerous Waste Weekly

3.22 The regulations at WAC 173-303-200(1)(b)(i) (2014) require LQGs to comply with WAC 173-303-630(6) (2014) which require LQGs inspect central accumulation areas holding dangerous waste at least weekly.

3.23 At the time of the Inspection, in the HazMat Storage Area of Facility Building 2451, the inspector observed accumulated waste that site representatives stated was also dangerous waste.

3.24 At the time of the Inspection, in the HazMat Storage Area of Facility Building 2451, the inspector asked to review weekly inspection logs and site representatives stated they did not conduct weekly inspections of the area.

3.25 Respondent violated the regulations at WAC 173-303-(630)(6) (2014) by failing to inspect central accumulation areas of dangerous waste at least weekly.

Failure to Label Used Oil Containers

3.26 The regulations at WAC 173-303-515(6) (2014) sets forth the standards for used oil generators and require compliance with 40 C.F.R. Parts 279.20 through 279.24 which are incorporated by reference.

3.27 Pursuant to 40 C.F.R. § 279.22(c)(1), containers used to store oil at generator facilities must be labeled or marked clearly with the words “Used Oil.”

3.28 At the time of the Inspection, in the Used Oil Storage Area of Facility Building 2451, the inspector observed a five-gallon container holding what a sire representative characterized as used oil was not labeled with the words “Used Oil.”

3.29 At the time of the Inspection, in the Used Oil Storage Area of Facility Building 2451, the inspector observed a 17-gallon container holding what a sire representative characterized as used oil was not labeled with the words “Used Oil.”

3.30 Respondent violated the regulations at WAC 173-303-(515)(6) (2014) and 40 C.F.R. § 279.22(c)(1) incorporated by reference, when Respondent failed to label containers of used oil with the words, “Used Oil.”

Failure to Close Used Oil Containers

3.31 The regulations at WAC 173-303-515(6)(a)(i) (2014) sets forth the standards for used oil generators and require containers holding used oil to be closed at all times, except when adding or removing used oil.

3.32 At the time of the Inspection, in the Used Oil Storage Area of Facility Building 2451, the inspector observed a 55-gallon drum with an attached oil filter funnel was open.

3.33 At the time of the Inspection, in Building 2050, the inspector observed three 55-gallon drums, one held hydraulic fluid and sat open; one beneath a filter crusher sat open, and one holding used oil with an attached pad squeegee sat open.

3.34 At the time of the Inspection, in Building 1017, the inspector observed a 55-gallon drum holding used oil that sat open.

3.35 At the time of the Inspection, in Building 1039, the inspector observed a 55-gallon drum holding used oil that sat open.

3.36 Respondent violated the regulations at WAC 173-303-(515)(6)(a)(i) (2014) when Respondent failed to keep containers holding used oil closed at all times except when adding or removing used oil.

3.37 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 \$124,426 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 Expedited Settlement Agreement.

4.2. Respondent neither admits nor denies the specific factual allegations contained in this Expedited Settlement 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 \$17,250 (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 Expedited Settlement Agreement and the Final Order shall be paid by any of the electronic methods specified at: www.epa.gov/financial/makepayment and in accordance with instructions provided at that webpage. Respondent must note on the payment its name and the docket number of this action. If payment is made using the IPAC application, use the Agency Location Code 68-01-0727 and include the Docket Number of this agreement in the description field of the IPAC. For questions, the customer service contact can be found at <https://www.epa.gov/financial/federal>.

4.6. Concurrently with all payments or within 24 hours of any payment, Respondent must serve copies of proof of payment to the following persons:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 10
Via electronic mail to:
R10_RHC@epa.gov

Kyle Masters
U.S. Environmental Protection Agency, Region 10
Via electronic mail to:
Masters.Kyle@epa.gov

and

U.S. Environmental Protection Agency
Cincinnati Finance Division
Via electronic mail to:
CINWD_AcctsReceivable@epa.gov

Proof of payment means, as applicable, a copy of the receipt or confirmation of payment method, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent's name.

4.7. If Respondent fails to pay any portion of the Assessed Penalty, the entire unpaid balance of the Assessed Penalty shall become immediately due and owing.

4.8. Respondent shall seek all existing funds to meet the requirements of this Expedited Settlement 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 Expedited Settlement Agreement. Nothing in this Expedited Settlement Agreement shall be interpreted to require obligations or payment of funds in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341.

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

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

4.11. Each party shall bear its own costs and attorneys' fees in bringing or defending this action.

4.12. 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.

4.13. By signing this Expedited Settlement Agreement, Respondent waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the Final Order.

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

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

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

DATED:

18 Aug 2026

FOR RESPONDENT:

EPPERSON.BRIAN.C.
1255165360

Digitally signed by
EPPERSON.BRIAN.C.1255165360
Date: 2026.08.18 15:46:57 -07'00'

Brian C. Epperson, Colonel
Commander, 92nd Air Refueling Wing
United States Air Force
Fairchild Air Force Base

FOR COMPLAINANT:

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-10-2026-0182
	)	
United States Air Force,	)	FINAL ORDER
Fairchild Air Force Base	)	
	)	
100 West Ent Street, Suite 155	)	
Fairchild AFB, Washington	)	
99011	)	

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 Expedited Settlement 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.

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: Fairchild Air Force Base, Docket No.: RCRA-10-2026-0182**, 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 via electronic mail:

Kyle Masters
U.S. Environmental Protection Agency
Region 10, Mail Stop 20-C04
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101

Masters.Kyle@epa.gov

Brian C. Epperson, Colonel
Commander, 92nd Air Refueling Wing
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Brian.Epperson@us.af.mil

Regional Hearing Clerk
EPA Region 10