



UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX

In the matter of:)	U.S. EPA Docket No.
)	RCRA-09-2025-0100
United States Department of Air Force,)	
Respondent.)	
)	CONSENT AGREEMENT AND
Andersen Air Force Base,)	FINAL ORDER PURSUANT TO
Facility.)	40 C.F.R. SECTIONS 22.13 AND
)	22.18
)	

CONSENT AGREEMENT

A. PRELIMINARY STATEMENT

1. This is a civil administrative enforcement action instituted pursuant to Section 9006 of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. § 6991e, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, as codified at 40 Code of Federal Regulations (C.F.R.) Part 22 ("Consolidated Rules").
2. The Administrator has delegated enforcement authority under Section 9006 of RCRA, 42 U.S.C. § 6991e, to the Regional Administrator of the EPA Region 9, who in turn has delegated this authority to the Director of the Enforcement and Compliance Assurance Division, hereinafter, "Complainant."
3. The Territory of Guam does not have an approved program implementing the RCRA Underground Storage Tank ("UST") regulations (40 C.F.R. Part 280).
4. Respondent is the United States Department of Air Force ("Respondent"), a department of the United States.
5. This Consent Agreement and Final Order (CA/FO), which contains the elements of a complaint required by 40 C.F.R. § 22.14(a)(1)-(3) and (8), simultaneously commences and concludes this penalty proceeding, as authorized by 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).

6. Complainant and Respondent agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their respective interest and in the public interest. Complainant and Respondent further agree that entry of this CA/FO without litigation is the most appropriate means of resolving this matter.

B. PARTIES BOUND

7. This CA/FO shall apply to and be binding on Respondent and its successor agencies, departments, or instrumentalities. Action or inaction of any persons, firms, contractors, employees, agents, or corporations acting under, through, or for Respondent shall not excuse any failure of Respondent to fully perform its obligations under this CA/FO. Changes in ownership, real property interest, or transfer of personal assets shall not alter Respondent's obligations under this CA/FO.

C. STATUTORY AND REGULATORY FRAMEWORK

8. Subtitle I of RCRA, 42 U.S.C. § 6991-6991m, requires the EPA Administrator to promulgate regulations governing release detection, prevention, and correction as relates to underground storage tanks.
9. Section 9006 of RCRA, 42 U.S.C. § 6991e, authorizes the EPA Administrator to issue orders assessing a civil penalty and/or requiring compliance within a reasonable specified time for violation of any requirement of Subtitle I of RCRA, Section 9001 of RCRA et seq., 42 U.S.C. § 6991 et seq.

D. GENERAL ALLEGATIONS

10. On May 1 through May 5, 2023, EPA conducted an inspection at Respondent's facility located in Yigo, Guam with a mailing address of Bldg. 18001, Arc Light Blvd, 36 CES Unit 14007, APO, AP, Guam 96543 (the "Facility").
11. The findings of this inspection are contained in a UST Inspection Report, dated August 17, 2023.
12. Based upon the findings EPA made during the inspection, and additional information obtained subsequent to the inspection between approximately May 6, 2023, through the date of execution of this CA/FO, EPA determined that Respondent violated Section 9003 of RCRA, 42 U.S.C. § 6991b, and the regulations adopted pursuant thereto at 40 C.F.R. Part 280.
13. Respondent is a "person" as defined in Section 9001(5) of the Act, 42 U.S.C. § 6991(5), and 40 C.F.R. § 280.12.

14. Respondent is the “owner” and/or “operator” of a facility as defined in 40 C.F.R. § 280.12.
15. Respondent owns and/or operates a “UST system” as defined in 40 C.F.R. § 280.12, which is subject to the requirements of 40 C.F.R. Part 280. Respondent assumed ownership of the UST system between on or about April 1, 2021 and October 1, 2021. Prior to this date, the Department of Navy owned and/or operated the system.

E. ALLEGED VIOLATIONS

Count I

(Failure to inspect impressed cathodic protection systems every 60 days)

16. Paragraphs 1 through 15 above are incorporated herein by reference.
17. 40 C.F.R. § 280.31(c) requires that UST systems with impressed cathodic protection be inspected every 60 days to ensure the equipment is running properly, and 40 C.F.R. § 280.31(d) requires that records of operation of the cathodic protection, including results of inspections, must be maintained to demonstrate compliance.
18. Pursuant to the May 2023 Inspection and related information requests, EPA inspectors observed that 60-day readings of each rectifier were not performed or documented during the period December 2020 through August 2023.
19. EPA alleges that Respondent violated 40 C.F.R. §§ 280.31(c) and (d) by failing to perform and document 60-day readings for each rectifier.

Count II

(Failure to operate and maintain corrosion protection systems to continuously provide corrosion protection)

20. Paragraphs 1 through 15 above are incorporated herein by reference.
21. 40 C.F.R. § 280.31(a) requires owners and operators of metal UST systems with corrosion protection to operate and maintain corrosion protection systems to continuously provide protection to the metal components of that portion of the tank and piping that routinely contain regulated substances and are in contact with the ground.
22. Pursuant to the May 2023 Inspection and related information requests, EPA inspectors observed that the corrosion protection systems were not providing continuous protection to the metal components in contact with the ground in violation of 40 C.F.R. § 280.31(a).

23. EPA alleges that Respondent violated 40 C.F.R. § 280.31(a) by failing to operate and maintain the corrosion protection systems to provide continuous protection.

Count III

(Failure to maintain a list of designated operators and records of training)

24. Paragraphs 1 through 15 above are incorporated herein by reference.
25. 40 C.F.R. § 280.245 requires that the owner or operator of a UST system must maintain a list of designated Class A, Class B, and Class C operators and maintain records verifying that training and retraining have been completed.
26. At the time of the May 2023 Inspection, Respondent was unable to provide a list of designated Class A, Class B, and Class C operators, or to provide records verifying that training and retraining had been completed.
27. EPA alleges that Respondent violated 40 C.F.R. § 280.245 by failing to maintain a list of designated operators and their training.

Count IV

(Failure to perform annual test of interstitial sensors in product recovery tanks)

28. Paragraphs 1 through 15 above are incorporated herein by reference.
29. 40 C.F.R. § 280.40(a)(3) requires that operators of UST systems provide a method, or combination of methods of leak detection that is operated and maintained, and that electronic and mechanical components are tested for proper operation. Testing of the proper operation must be performed at least annually and, at a minimum, must cover probes and sensors to test alarm operability and communication with the controller.
30. Pursuant to the May 2023 Inspection, EPA inspectors observed that the five double-walled product recovery tanks equipped with interstitial sensors had not been subject to annual testing to ensure operability of the sensors and console.
31. EPA alleges that Respondent violated 40 C.F.R. § 280.40(a)(3) by failing to perform annual inspections of the interstitial sensors on five product recovery tanks.

Count V

(Failure to notify the implementing agency of non-passing test results within 24 hours)

32. Paragraphs 1 through 15 above are incorporated herein by reference.

33. 40 C.F.R. § 280.40(b) requires that when a release detection method operated in accordance with relevant performance standards indicates a release may have occurred, operators must notify the implementing agency within 24 hours.
34. Pursuant to the May 2023 Inspection and related information requests, the EPA inspection team identified several instances of non-passing leak detection test results for portions of Respondent's UST system that were not reported to Guam EPA or U.S. EPA, nor was follow-up work needed to obtain a passing result conducted in a timely manner. Respondent attests that there were no releases of fuel into the environment associated with the non-passing leak detection results.
35. EPA alleges that Respondent violated 40 C.F.R. § 280.40(b) by failing to notify the implementing agency that a release detection method indicated a release may have occurred.

F. CIVIL PENALTY

36. Respondent agrees to pay a civil penalty in the amount of NINETY-ONE THOUSAND, ONE HUNDRED AND FIFTY-TWO DOLLARS (\$91,152) ("Assessed Penalty") within sixty (60) calendar days of the Effective Date of this CA/FO. The Effective Date of this CA/FO as defined in Section L, below, is the date the Final Order, signed by the Regional Judicial Officer, is filed with the Regional Hearing Clerk.
37. Respondent shall pay the Assessed Penalty using any method, or combination of appropriate methods, as provided on the EPA website:
<https://www.epa.gov/financial/makepayment>. 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. For additional instructions, see:
<https://www.epa.gov/financial/federal>.
38. When making a payment, Respondent shall:
 - a. Identify every payment with Respondent's name and the docket number of this Agreement, RCRA-09-2025-0100.
 - b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve proof of such payment to the following persons via electronic mail:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 9
R9HearingClerk@epa.gov

S. Bobby Ojha
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency - Region 9
Ojha.bobby@epa.gov

and

U.S. Environmental Protection Agency
Cincinnati Finance Center
CINWD_AcctsReceivable@epa.gov

“Proof of payment” means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, 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.

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

G. ADMISSIONS AND WAIVERS OF RIGHTS

40. In accordance with 40 C.F.R. § 22.18(b), for the purpose of this proceeding, Respondent:

- a) admits the jurisdictional allegations of this CA/FO;
- b) neither admits nor denies specific factual allegations contained in this CA/FO;
- c) consents to the assessment of any stated civil penalty, to the issuance of any specified compliance or corrective action order, and to any conditions specified in this CA/FO; and
- d) waives any right to contest the allegations and its right to appeal the proposed final order accompanying this consent agreement, including any right to confer with the EPA Administrator under 40 C.F.R. § 22.31(e) with regard to this case. Respondent expressly waives its opportunity to request a hearing on the order pursuant to Section 9006(b) of the Act, 42 U.S.C. § 6991e(b).

H. CERTIFICATION OF COMPLIANCE

41. In executing this CA/FO, Respondent certifies under penalty of law to EPA that it has taken all steps necessary to return to full compliance with RCRA, 42 U.S.C. § 6901 *et seq.*, and its implementing regulations.

I. RESERVATION OF RIGHTS

42. In accordance with 40 C.F.R. § 22.18(c), full compliance with this CA/FO shall only resolve Respondent's liability for federal civil penalties for the violations specifically alleged herein and does not in any case affect the right of the EPA to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.
43. This CA/FO is not a permit or modification of any existing permit issued pursuant to any federal, state, or local laws or regulations. This CA/FO shall in no way relieve or affect Respondent's obligations under any applicable federal, state or local laws, regulations, or permits.

J. OTHER CLAIMS

44. Nothing in this CA/FO shall constitute or be construed as a release from any other claim, 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 operation of any underground storage tanks at the Facility.

K. MISCELLANEOUS

45. This CA/FO can be signed in counterparts.
46. The headings in this CA/FO are for convenience of reference only and shall not affect interpretation of this CA/FO.
47. Each party to this action shall bear its own costs and attorneys' fees.
48. EPA and Respondent consent to entry of this CA/FO without further notice.
49. By signing this CAFO, Respondent acknowledges that this CA/FO will be available to the public and agrees that this CAFO does not contain any confidential business information or personally identifiable information.

L. EFFECTIVE DATE

50. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), the effective date of this CA/FO (Effective Date) shall be the date that the Final Order contained in this CA/FO, having been approved and issued by the Regional Judicial Officer, is filed with the Regional Hearing Clerk.

IT IS SO AGREED.

In the Matter of Andersen Air Force Base
Consent Agreement and Final Order

FOR RESPONDENT, U.S. DEPARTMENT OF AIR FORCE, ANDERSEN AIR FORCE
BASE:

29 July 2025

Date

COOLEY.CHARLES.D
ANIEL.1051541908

Digitally signed by
COOLEY.CHARLES.DANIEL.1051541908
Date: 2025.07.29 16:51:49 +10'00'

CHARLES D. COOLEY, Colonel, USAF
Commander, 36th Wing

FOR COMPLAINANT, U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION IX:

AMY MILLER-
BOWEN

Digitally signed by AMY
MILLER-BOWEN
Date: 2025.08.05
09:47:55 -07'00'

Amy C. Miller-Bowen, Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region IX

FINAL ORDER

IT IS HEREBY ORDERED that this Consent Agreement and Final Order pursuant to 40 C.F.R. Sections 22.13 and 22.18 (U.S. EPA Docket No. RCRA-09-2025-0100) be entered and that Respondent pay a civil penalty of NINETY-ONE THOUSAND, ONE HUNDRED AND FIFTY-TWO DOLLARS (\$91,152), due within thirty (60) days from the Effective Date of this Consent Agreement and Final Order, in accordance with all terms and conditions of this Consent Agreement and Final Order.

This Final Order shall be effective upon filing by the Regional Hearing Clerk.

Beatrice Wong
Regional Judicial Officer
United States Environmental Protection Agency,
Region IX

CERTIFICATE OF SERVICE

I certify that the original of the fully executed Consent Agreement and Final Order in the matter of United States Department of Air Force, Andersen Air Force Base, Facility (Docket No. RCRA-09-2025-0100) was filed with Regional Hearing Clerk, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, and that a true and correct copy of the same was served on the parties, via electronic mail, as indicated below:

RESPONDENT: Colonel Charles D. Cooley
USAF Commander 36th Wing
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Yigo, Guam 96540
Charles.Cooley.1@us.af.mil

COMPLAINANT: Tessa Allen
Assistant Regional Counsel
U.S. EPA – Region IX
Hazardous Waste Section II (ORC-3-2)
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San Francisco, CA 94105
Allen.Tessa@epa.gov

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Regional Hearing Clerk
U.S. EPA – Region IX