

**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY**

IN THE MATTER OF:)	Docket No. RCRA-10-2020-0150
)	
Queen Anne Upholstery and Refinishing)	EXPEDITED SETTLEMENT
Seattle, Washington)	AGREEMENT AND
EPA ID Number WAD982656431)	FINAL ORDER
)	
Respondent)	
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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”) and 40 C.F.R. § 22.13(b).
2. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), EPA granted Washington final authorization to administer and enforce a hazardous waste program and to carry out such program in lieu of the federal program.
3. Pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), EPA may enforce the federally-approved Washington hazardous waste program.
4. Pursuant to Section 3008(a)(2) of RCRA 42 U.S.C. § 6928(a)(2), notification of the action has been given to the Washington Department of Ecology.
5. Queen Anne Upholstery and Refinishing (“Respondent”) is the owner or operator of a facility at 1414 South Director Street, Seattle, Washington (“Facility”). EPA inspected the Facility on February 24, 2020. EPA alleges Respondent violated the following requirements of RCRA and the EPA-approved and authorized Washington hazardous waste management program (Washington Administrative Code (“WAC”) Chapter 173-303):
 - a. WAC 173-303-170(3)(a) allows a medium quantity generator of dangerous waste to accumulate dangerous waste in containers for less than one hundred eighty days without a permit, provided that they comply with the applicable requirements of WAC 173-303-201. WAC 173-303-201(2) references WAC 173-303-340(3), which states that an owner or operator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency. On February 24, 2020, at least ten containers of product were located in front of, and obstructing access to, a 55-gallon container of dangerous waste solvent in the furniture stripping area; therefore, Respondent did not satisfy the applicable requirements of WAC 173-303-201(2) for accumulating dangerous waste without a permit.

- b. WAC 173-303-170(3)(a) allows a medium quantity generator of dangerous waste to accumulate dangerous waste in containers for less than one hundred eighty days without a permit, provided that they comply with the applicable requirements of WAC 173-303-201. WAC 173-303-201(2) references WAC 173-303-630(6), which states that at least weekly, the owner or operator must inspect areas where containers of dangerous waste are stored, looking for leaking containers and for deterioration of containers and the containment system caused by corrosion, deterioration, or other factors and must keep an inspection log documenting the date and time of the inspection, the printed name and handwritten signature of the inspector, and a notation of the observations made and the date and nature of any repairs or remedial actions taken. On February 24, 2020, Respondent did not have any documentation of an inspection conducted in its dangerous waste accumulation areas during the week of February 16-22, 2020; therefore, Respondent did not satisfy the applicable requirements of WAC 173-303-201(2) for accumulating dangerous waste without a permit.
- c. WAC 173-303-170(3)(a) allows a medium quantity generator of dangerous waste to accumulate dangerous waste in containers for less than one hundred eighty days without a permit, provided that they comply with the applicable requirements of WAC 173-303-201. The regulation at WAC 173-303-170(3)(b) allows a medium quantity generator of dangerous waste to treat dangerous waste in containers without a permit, again provided that they comply with the applicable requirements of WAC 173-303-201. WAC 173-303-201(2) requires, by reference, that a container in which dangerous waste is accumulated and/or treated must be closed except when adding or removing waste [WAC 173-303-630(5)(a)], marked with the date accumulation began [WAC 173-303-200(1)(c)], and marked or labeled with the words “dangerous waste” or “hazardous waste,” and a label or sign which identifies the major risk(s) associated with the waste [WAC 173-303-200(1)(d)]. On February 24, 2020:
1. In the hazmat storage room, Respondent was accumulating approximately twenty dangerous waste paint booth filters in a black plastic bag that was not marked or labeled with the date accumulation began, the words, “dangerous waste” or “hazardous waste,” or an indication of the major risks associated with the waste.
 2. In the paint mixing room, Respondent was accumulating dangerous waste aerosol cans in a 20-gallon container that was not closed and not marked with the words “dangerous waste” or “hazardous waste,” or the date accumulation began, and a 45-gallon container that was not closed and was not marked with the words “dangerous waste” or “hazardous waste,” the date accumulation began, or a label or sign that identified the major risk(s) associated with the waste.
 3. In the paint mixing room, Respondent was accumulating dangerous waste oil-based finish in a quart-size container and treating the dangerous waste by allowing it to evaporate in the container. The container in which the dangerous waste was being accumulated and treated was open and was not marked with the words “dangerous waste” or “hazardous waste,” the date accumulation began, or a label or sign that identified the major risk(s) associated with the waste.

Respondent's management of the four containers of dangerous waste did not satisfy the applicable requirements of WAC 173-303-201(2) for accumulating dangerous waste without a permit.

- d. WAC 173-303-573(9)(c)(ii) requires that a small quantity handler of universal waste lamps must minimize lamp breakage by accumulating lamps in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. WAC 173-303-573(10)(c) requires small quantity handlers of universal waste to mark or label universal waste to identify the type of universal waste and universal waste lamps (that is, each lamp), or a container in which the lamps are accumulated, must be labeled or marked clearly with any one of the following phrases: "Universal Waste Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)." WAC 173-303-573(11)(c) requires that a small quantity handler of universal waste who accumulates universal waste must be able to demonstrate the length of time the universal waste has been accumulated from the date it becomes a waste and may make this demonstration by marking or labeling the container holding the universal waste or each individual item of universal waste with the date it became waste or any of the other methods specified in WAC 173-303-573(11)(c)(iii-vi). On February 24, 2020, in the universal waste accumulation area, Respondent was managing two containers of universal waste lamps and neither container of lamps or the individual waste lamps in the containers were labeled "Universal Waste Lamps," "Waste Lamps," or "Used Lamps." In the same universal waste accumulation area, Respondent was also managing nine waste fluorescent lamps that were not in a container or package, not labeled with the phrases "Universal Waste Lamps," "Waste Lamps," or "Used Lamps," or with the date they first became waste, nor did the facility representative demonstrate any other method by which the facility was tracking the length of time the nine lamps had been accumulated since they became waste. Respondent's management of universal waste violated WAC 173-303-573(9)(c)(ii), WAC 173-303-573(10)(c), and WAC 173-303-573(11)(c).
6. 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 \$7,000. The attached Penalty Calculation Worksheet is incorporated by reference.
7. 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.
8. Each party shall bear its own costs and fees, if any.
9. In signing this Agreement, Respondent: (1) admits that EPA has jurisdiction over Respondent and Respondent's conduct as alleged herein, (2) neither admits nor denies the factual allegations contained herein, (3) consents to the assessment of this civil penalty, and (4) waives any right to contest the allegations contained herein in a hearing or appeal pursuant to Section 3008(b) of RCRA.
10. In signing this Agreement, Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that: (1) the alleged violations have been corrected, and (2) the civil penalty has been paid. Respondent is submitting proof of

payment of the civil penalty with this Agreement.

11. Upon the effective date of this Agreement, payment of the civil penalty shall constitute full settlement of the civil claims alleged herein.
12. This Agreement is binding on the parties signing below and, in accordance with 40 C.F.R. § 22.31(b), is effective upon filing.

IT IS SO AGREED,

RESPONDENT:

Name (print): DANIEL JACOY

Title (print): CEO

Signature: 

Date: AUGUST 26, 2020

EPA REGION 10:

Edward J. Kowalski, Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 10

Date: _____

IT IS SO ORDERED:

Richard Mednick, Regional Judicial Officer
U.S. Environmental Protection Agency, Region 10

Date: _____