BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

IN THE MATTER OF: Alaska Department of Transportation and Public Facilities, Soldotna Maintenance Station 46445 Sterling Highway Soldotna, Alaska 99669 EPA ID No. AKR000203653 Respondent	)	Docket No. RCRA-10-2025-0164 EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER

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. The Alaska Department of Transportation and Public Facilities ("ADOT&PF" or "Respondent") is the owner or operator of the facility at 46445 Sterling Highway, Soldotna, Alaska, EPA RCRA ID Number AKR000203653 ("Facility"). The Facility is a Small Quantity Generator of Hazardous Waste and a Small Quantity Handler of Universal Waste.

3. 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.

4. On April 27, 2021, 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 RCRA's hazardous waste regulations (the "Inspection"). The EPA alleges that Respondent violated the following requirements of the RCRA.

   a. **Failure to Make a Waste Determination**

Pursuant to 40 C.F.R. § 262.11, a generator of solid waste must make an accurate determination as to whether that waste is a hazardous waste to ensure wastes are properly managed according to applicable RCRA regulations. The hazardous waste determination for each solid waste must be made at the point of waste generation.

At the time of the Inspection, inside the sand shed at the Facility, the EPA inspector observed a 250-gallon tote in which the facility collected waste traffic paint from a paint mixer. The waste paint was generated in 2016-2018. At the time the paint was collected, it was still in liquid form. The safety data sheets (SDSs) for both the Alaska Low VOC White Solvent Paint and the Alaska Low VOC Yellow Solvent Paint note in the section on waste disposal methods that the paint, as supplied, is a hazardous waste according to RCRA 40 CFR Part 261. Both paints had flash points of -4°F in liquid form and therefore were ignitable hazardous waste at the time the waste paints were collected in the tote in their liquid state. The Facility did not identify the waste paints as hazardous waste, nor did the Facility remove as much of the waste paint as possible from the tote using common practices before allowing it to dry.

At the time of the Inspection, inside the Cold Storage/Facilities Connex at the Soldotna facility, the EPA inspector observed an open 5-gallon container of waste Corothane Paint inside an open plastic bag. A hazard classification label on the container identified the contents as flammable. Following the Inspection, the facility provided the Corothane Paint SDS, which confirmed the liquid paint had a flash point of 93.2 °F, so it was hazardous waste exhibiting the ignitability characteristic. The EPA inspector confirmed the container was not RCRA empty at the time of the inspection. The Facility did not identify the Corothane Paint as hazardous waste.

The Respondent failed to make a waste determination for the Alaska Low VOC White Solvent Paint, the Alaska Low VOC Yellow Solvent Paint and the Corothane Paint in violation of 40 C.F.R. § 262.11.

b. **Failure to Properly Manage Universal Waste**

i. <u>Failure to keep a container of universal waste lamps closed</u>

Pursuant to 40 CF.R. § 273.13(d)(1), a small 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.

Inside the Cold Storage/Facilities Connex, the Facility was accumulating universal waste consisting of used eight-foot fluorescent lamps generated by Maintenance and Operations (M&O). The box in which the lamps were accumulated was open when the inspector came upon it. While the EPA inspector was present, the facility representative closed the container. Also, inside the Cold Storage/Facilities Connex, the Facility was accumulating

universal waste consisting of used high-pressure sodium lamps in an open bucket. The container in which the lamps were accumulated was not closed. While the EPA inspector was present, facility personnel placed the lamps in new containers and closed those containers.

Inside the Electrician's Connex, the Facility was accumulating high pressure sodium lamps in an open container. While the EPA inspector was present, the facility representative placed the lamps in a new container and closed it.

The Respondent's failure to close the fluorescent lamps in the Cold Storage/Facilities Connex, and the high-pressure sodium lamps in the Electrician's Connex constitutes a violation of 40 C.F.R. § 273.13(d)(1).

ii. Failure to meet labeling/marking requirements for universal waste lamps

Pursuant to 40 C.F.R. § 273.14(e), a small quantity handler of universal waste must label or mark each lamp or a container or package in which such lamps are contained clearly with one of the following phrases: "Universal Waste - Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)".

Inside the Cold Storage/Facilities Connex, the Facility was accumulating universal waste consisting of used eight-foot fluorescent lamps generated by M&O. Neither the individual lamps nor the box in which they were accumulated were labeled to identify them as universal waste. While the inspector was present, the facility representative marked the container with the words Used Lamps. Also, inside the Cold Storage/Facilities Connex, the Facility was accumulating universal waste consisting of used high-pressure sodium lamps in a bucket. Neither the individual lamps nor the container accumulating the lamps were marked or labeled to identify them as universal waste lamps. While the EPA inspector was present, facility personnel placed the lamps in new containers and marked those containers "Used Lamps."

The Respondent's failure to properly mark containers of universal waste lamps constitutes a violation of 40 C.F.R. § 273.14(e).

iii. Failure to demonstrate the length of time universal waste has been accumulated

Pursuant to 40 C.F.R. § 273.15(c), a small quantity handler of universal waste who accumulates 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.

Inside the Cold Storage/Facilities Connex, the Facility was accumulating universal waste consisting of used eight-foot fluorescent lamps generated by M&O. The Facility representative was unsure how long the lamps had been accumulated but thought they had been in the Connex since August of 2020. He marked the container in the presence of the EPA inspector with the date 8/2020. The Facility was unable to demonstrate the actual date

upon which it started accumulating the universal waste lamps and was only able to estimate the month and year in which the facility representative thought they might have begun accumulating the lamps.

Also, inside the Cold Storage/Facilities Connex, the Facility was accumulating universal waste consisting of used high-pressure sodium lamps. The Facility representative told the EPA inspector that he did not know how long the lamps had been in the Connex. While the EPA inspector was present, Facility personnel placed the lamps in new containers and marked those containers with the date 8/15/2020. The Facility was unable to demonstrate the actual date upon which it started accumulating the universal waste lamps. A Facility representative marked the boxes with the date he thought the Facility may have begun accumulating the lamps.

The Respondent's failure to demonstrate the length of time universal waste lamps were accumulating constitutes a violation of 40 C.F.R. § 273.15(c).

iv. Failure to immediately put broken universal waste lamps in a container

Pursuant to 40 C.F.R. § 273.13(d)(2), a small quantity handler of universal waste must immediately clean up and place in a container any lamp that is broken and must place in a container any lamp that shows evidence of breakage, leakage, or damage that could cause the release of mercury or other hazardous constituents to the environment.

Inside the Cold Storage/Facilities Connex, the Facility was accumulating universal waste consisting of used high-pressure sodium lamps in an open bucket. A broken high-pressure sodium lamp was accumulated in the open container.

The Respondent's failure to place the broken high-pressure sodium lamp in a closed container constitutes a violation of 40 C.F.R. § 273.13(d)(2) since the placement of the lamp in an open container could cause the release of hazardous constituents into the environment.

v. Failure to properly puncture and recycle universal waste aerosol containers

Pursuant to 40 C.F.R. § 273.13(e)(4)(i), a small quantity handler of universal waste who punctures and drains their aerosol cans must recycle the empty punctured aerosol cans and must conduct puncturing and draining activities using a device specifically designed to safely puncture aerosol cans and effectively contain the residual contents and any emissions thereof.

At the time of the Inspection, in the State Equipment Fleet side of the Soldotna shop, the EPA inspector observed punctured aerosol cans of CRC Brakleen and Aerokroil in trash cans with other solid wastes. The Facility representative told the EPA inspector that the waste aerosol cans were punctured on the sharp edge of a worktable or with a punch tool. Following puncturing and release of the contents, the Facility's emptied aerosol cans were placed in trash cans with other solid wastes, rather than being recycled or being placed in a recycling container segregated from wastes managed as solid wastes.

The SDSs for CRC Brakleen and Aerokroil, both of which were punctured and in the trash cans, indicate that they both have flash points < 140°F, so released contents would have been ignitable characteristic hazardous waste. Further, the CRC Brakleen SDS confirms this information and specifically states that if discarded, the product is a RCRA ignitable waste and warning labels should be followed when handling emptied containers since they may retain product residue.

The Respondent violated 40 C.F.R. § 273.13(e)(4)(i) by not using an appropriate device for puncturing and draining universal aerosol cans, and by not recycling the punctured containers.

vi. Failure to properly manage universal waste aerosol can released contents

Pursuant to 40 C.F.R. § 273.13(e)(4)(v), a small quantity handler of waste aerosol can conduct a hazardous waste determination on the contents of the emptied aerosol can per 40 CFR 262.11. 40 C.F.R. § 273.13(e)(4)(v) also states that any hazardous waste generated as a result of puncturing and draining the aerosol can is subject to all applicable requirements of 40 CFR Parts 260 through 272. The handler is considered the generator of the hazardous waste and is subject to 40 CFR Part 262.

A Facility representative told the Inspector that the Facility does not collect the released contents of the cans or manage them in any way. The SDSs for CRC Brakleen and Aerokroil, both of which were punctured and in the trash cans, indicate that they both have flash points < 140°F, so released contents would have been ignitable characteristic hazardous waste. Further, the CRC Brakleen SDS confirms this information and specifically states that if discarded, the product is a RCRA ignitable waste and warning labels should be followed when handling emptied containers since they may retain product residue.

In the Warm Storage area, the Maintenance and Operation (M&O) part of the Facility had generated Aervoe Survey Marking Paint waste aerosol cans. The Aervoe aerosol cans were in a storage locker. The Inspector picked up the Aervoe cans and they felt empty. The facility representative in the M&O side of the Soldotna shop confirmed the Aervoe paint cans were waste and then put the waste aerosol cans into a 55-gallon container and labeled the container with the words "Hazardous Waste" during the Inspection.

The Respondent violated 40 C.F.R. § 273.13(e)(4)(v) by not making a hazardous waste determination for the CRC Brakleen and Aerokroil released contents, and by not managing the released contents as hazardous waste.

The Respondent also violated 40 C.F.R. § 273.13(e)(4)(v) by not making a hazardous waste determination for the Aervoe Survey Marking paint and not managing those aerosol cans as hazardous waste.

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 $13,750. 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 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 accompanying this ESA, including 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. Within 30 days of the effective date of this Agreement, Respondent shall pay a civil penalty of $13,750 for the RCRA violations identified in this Agreement. Payments under this 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.

8. Concurrent with all payments, Respondent must serve copies of proof of payment to the following persons:

Regional Hearing Clerk U.S. Environmental Protection Agency Region 10 R10_RHC@epa.gov	Jon Jones U.S. Environmental Protection Agency Region 10 Jones.Jon@epa.gov

9. 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.

10. 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.

11. Each party shall bear its own costs and fees, if any.

12. This Agreement and Final Order shall constitute full settlement of the civil claims alleged herein.

13. 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.

14. 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): Sean Holland

Title (print): Central Region Director

Signature: Sean Holland Date: 12/5/2025

EPA REGION 10:

EDWARD KOWALSKI Digitally signed by EDWARD KOWALSKI Date: 2025.12.11 11:59:31 -08'00' Date: _____

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

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 Digitally signed by RICHARD MEDNICK Date: 2025.12.12 13:20:26 -08'00'

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: Alaska Department of Transportation and Public Facilities, Docket No.: RCRA-10-2025-0164, 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:

Jon Jones
U.S. Environmental Protection Agency
Region 10
Jones.Jon@epa.gov

Mr. Ryan Anderson
Commissioner
Alaska Department of Transportation and Public Facilities
P.O. Box 112500
3132 Channel Drive
Juneau, Alaska 99811-2500

DATED this 15 day of December, 2025.

SALEE PORTER

Digitally signed by SALEE PORTER
Date: 2025.12.15 09:48:14 -08'00'

Regional Hearing Clerk
EPA Region 10