



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

1200 Sixth Avenue, Suite 155
Seattle, WA 98101

LAND, CHEMICALS &
REDEVELOPMENT
DIVISION

September 30, 2023

Colonel David J. Wilson, Commander
673d Air Base Wing and Joint Base Elmendorf-Richardson
10471 20th Street, Suite 139
JBER, Alaska 99506

Re: Resource Conservation and Recovery Act Permit Decision
Joint Base Elmendorf-Richardson
EPA ID No.: AK8 57002 8649
Notice of Permit Issuance

Dear Colonel Wilson:

The U.S. Environmental Protection Agency, Region 10 has made a final determination to reissue a Hazardous Waste Management Facility Permit to Joint Base Elmendorf-Richardson. This final Permit (Enclosure 1) is issued under the authority of the Resource Conservation and Recovery Act (RCRA). The effective date of the final Permit is October 30, 2023.

The EPA opened a public comment period on the draft Permit on July 24, 2023. The draft Permit and Fact Sheet supporting the draft Permit were made available to the public and the Permittee at that time. The comment period was open from July 24 through September 7, 2023. The EPA received one timely written comment (Enclosure 3) submitted jointly by Laura Olah, Executive Director, Citizens for Safe Water Around Badger (CSWAB) and Pamela Miller, Executive Director, Alaska Community Action on Toxics (ACAT).

One change was made to the Permit because of the comment received. The Response to Comments (Enclosure 4) responds to all comments, and specifies the changes made to the final Permit.

This letter serves as the EPA's notice of the issuance of the final Permit pursuant to 40 CFR § 124.15. The date of notice for the issuance of this final Permit, in accordance with 40 CFR § 124.15, is September 30, 2023. The final Permit will become effective on October 30, 2023, unless a petition for review of the permit decision is filed with the Clerk of the Environmental Appeals Board within thirty (30) days after this issuance of this notice. Any appeal of this final Permit must meet the requirements of 40 CFR § 124.19. Information about the administrative appeal process may be obtained on-line at <http://epa.gov/eab> or by contacting the Clerk of the Environmental Appeals Board by phone at (202) 233-0122.

A copy of the final Permit and Response to Comments will be maintained by the EPA in the Administrative Record for the final Permit. A copy of the final Permit and Response to Comments will also be maintained in the Alaska Department of Environmental Conservation office in Anchorage.

If you have any questions about the final Permit, please contact me at (206) 553-1563 or hamlin.tim@epa.gov, or contact Brett Feldhahn, of my staff, at (206) 553-2899 or feldhahn.brett@epa.gov.

Sincerely,

TIMOTHY
HAMLIN

Digitally signed by
TIMOTHY HAMLIN
Date: 2023.09.29
15:03:38 -07'00'

Timothy B. Hamlin
Director

Enclosures:

1. Final RCRA Permit
2. Final RCRA Permit Attachments
3. Written Comment
4. Response to Comments

cc: Dr. Mark Prieksat
673 CEG/CD

Mr. James Lang
673 CES/CEIE

Mr. Alex Cierlitsky
673 CES/CEIE

Mr. Kevin Thomas
AFCEC/CZOP

Ms. Laura Olah
CSWAB

Ms. Pamela Miller
ACAT

Ms. Lori Aldrich
ADEC

FINAL

**RESOURCE CONSERVATION AND RECOVERY ACT
HAZARDOUS WASTE MANAGEMENT FACILITY PERMIT**

EPA I.D. No. AK8 57002 8649

September 2023

Issued to:

Joint Base Elmendorf-Richardson

Anchorage, Alaska

Page i
Permit No. AK8 57002 8649
Expiration Date: October 29, 2033
FINAL PERMIT

HAZARDOUS WASTE MANAGEMENT FACILITY PERMIT

U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101
(206) 553-1200

Issued in accordance with the Resource Conservation and Recovery Act as amended, 42 United States Code (USC) § 6901 *et seq.* (RCRA), which incorporates the Hazardous and Solid Waste Amendments of 1984 (HSWA), and in accordance with the implementing regulations codified in Title 40 of the Code of Federal Regulations (CFR) Parts 124 and 260 through 270.

ISSUED TO: Joint Base Elmendorf-Richardson
EPA I.D. No.: AK8 57002 8649

This Permit is effective as of October 30, 2023, and shall remain in effect until October 29, 2033, unless revoked and reissued under 40 CFR § 270.41, or terminated under 40 CFR § 270.43, or continued in accordance with 40 CFR § 270.51(a). This Permit will be reviewed five (5) years after the date of issuance, in accordance with Section 3005(c)(3) of RCRA, 42 U.S.C. § 6925(c)(3), and 40 CFR § 270.50, and will be modified to assure that the facility continues to comply with the currently applicable requirements of Sections 3004 and 3005 of RCRA, 42 U.S.C. §§ 6924 and 6925.

ISSUED BY: U.S. ENVIRONMENTAL PROTECTION AGENCY

Timothy B. Hamlin, Director
Land, Chemicals and Redevelopment Division
U.S. Environmental Protection Agency, Region 10

Date: _____

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LIST OF ATTACHMENTS

The following attachments are hereby incorporated as enforceable conditions of this Permit. In the event of any inconsistencies between a permit condition and an attachment, the permit condition shall prevail.

Attachment 1	RCRA Part A Application (November 2022)
Attachment 2	Facility Description (November 2022)
Attachment 3	Contingency Plan (November 2022)
Attachment 4	Facility Location Information (November 2022)
Attachment 5	Description of Solid Waste Management Units (November 2022)
Attachment 6a	Elmendorf AFB Federal Facility Agreement (September 1991)
Attachment 6b	Fort Richardson Federal Facility Agreement (December 1994)
Attachment 7	Interim Closure Plan for OB/OD Area (November 2022)
Attachment 8	List of Solid Waste Management Units (November 2022)

INTRODUCTION

Permittee: Joint Base Elmendorf-Richardson
EPA ID Number: AK8 57002 8649

Pursuant to RCRA and its implementing regulations as promulgated by the EPA, a hazardous waste facility permit is hereby issued to Joint Base Elmendorf-Richardson (Permittee) for closure of an open burning/open detonation (OB/OD) unit and for corrective action at all solid waste management units (SWMUs) at the Joint Base Elmendorf-Richardson Facility, geographically located on 74,297 acres of land contiguous to the north side of the Municipality of Anchorage, Alaska, at 61 degrees, 14 minutes north latitude and 149 degrees, 48 minutes west longitude (Facility).

The Permittee must comply with all terms and conditions of this hazardous waste facility permit. This Permit consists of the conditions contained herein (including those in any attachments), and the applicable regulations in 40 CFR Parts 124 and 260 through 270. Any management of hazardous waste at the Facility which is not authorized by this Permit is prohibited.

Nothing in this Permit shall limit the EPA's authority to undertake, or require any person to undertake, response action, corrective action, or enforcement action under any law, including, but not limited to, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 USC § 9601 *et seq.* (CERCLA) and RCRA. Nor shall any permit condition relieve the Permittee of any obligation under any law, including, but not limited to, § 103 of CERCLA, 42 USC § 9603, an obligation to report releases of hazardous waste, constituents, or substances to, at, or from the Facility.

Applicable federal regulations are those which are in effect on the date of final administrative action on this Permit and any self-implementing statutory provisions and related regulations which, according to the requirements of RCRA, are automatically applicable to the Permittee's hazardous waste management activities, notwithstanding the conditions of this Permit.

This Permit is based upon the administrative record, as required by 40 CFR § 124.9. The Permittee's failure in the Part B Permit Application or during the Permit issuance process to fully disclose all relevant facts, or the Permittee's misrepresentation of any relevant facts at any time, shall be grounds for the termination or modification of this Permit and/or initiation of an enforcement action, including criminal proceedings. The Permittee shall inform the Administrator of noncompliance with any condition of the Permit or changes to the information provided in the Part B Permit Application that might affect the ability of the Permittee to comply with applicable regulations and permit conditions, or which alter any of the conditions of the Permit in any way.

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Expiration Date: October 29, 2033
FINAL PERMIT

This Permit includes requirements for corrective action for all releases of hazardous waste and/or constituents from all SWMUs at the Facility regardless of when the waste and/or constituent was placed in such unit.

The State of Alaska does not currently have an authorized RCRA program pursuant to § 3006 of RCRA, 42 USC § 6926. Therefore, this RCRA hazardous waste management facility Permit is issued by the EPA.

DEFINITIONS

For purposes of this Permit, all definitions contained in 40 CFR Parts 124 and 260 through 270, are hereby incorporated by reference into this Permit. Where terms are not defined in the regulations or in this section of the Permit, the meaning associated with such terms shall be the standard dictionary definition, or their generally accepted scientific or industrial meaning. In addition to the preceding, the following definitions shall apply:

“Administrator” shall mean the Region 10 Regional Administrator of the EPA or the designated representative. The Director, Land, Chemicals and Redevelopment Division, EPA, Region 10 (whose address is specified on page “i” of this Permit), is the duly authorized and designated representative of the Administrator for purposes of this Permit.

“Daily” shall mean regular workdays, except that no more than four (4) consecutive calendar days shall fall between groups of **“daily”** activities required by this Permit.

“Day” shall mean, unless otherwise noted, calendar time, e.g., thirty (30) days means thirty (30) calendar days.

“Facility” shall mean all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste, or for managing hazardous secondary materials prior to reclamation. For purposes of implementing corrective action, the term shall mean all contiguous property under the control of the owner/operator.

“Hazardous constituent” shall mean any constituent identified in Appendix VIII of 40 CFR Part 261, or any constituent identified in Appendix IX of 40 CFR Part 264, and any newly regulated hazardous constituents.

“Open Burning/Open Detonation (OB/OD) Unit” shall mean the area adjacent to the Eagle River Flats wetlands and within the boundary of the Eagle River Flats impact area in the northwest sector of Joint Base Elmendorf-Richardson that was used for disposing of unexploded ordnance (UXO), unused propellants, rocket motors, small-arms ammunition, and other military munitions, by open burning/open detonation of the aforementioned hazardous waste.

“Permit” shall mean this Permit issued by the EPA, Region 10 pursuant to RCRA and the regulations promulgated under RCRA.

“Permittee” shall mean the Joint Base Elmendorf-Richardson.

“Range” shall mean the Eagle River Flats Firing Range.

"Release" shall mean any spilling, leaking, pouring, emitting, emptying, discharging, injecting, pumping, escaping, leaching, dumping, or disposing of hazardous waste and/or constituents into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing hazardous waste and/or constituents).

"Solid waste management unit (SWMU)" shall mean any discernible unit at which solid wastes have been placed at any time, irrespective of whether the unit was intended for the management of solid or hazardous waste. Such units include any area at the Facility at which hazardous waste and/or constituents have been routinely and systematically released.

"Work" shall mean any activity the Permittee is required to perform under the Permit.

PART I - STANDARD CONDITIONS

I.A. Effect of Permit

- I.A.1. The Permittee is required to close the OB/OD unit and to conduct corrective action for the Facility in accordance with the conditions of this Permit. Any treatment, storage, or disposal of hazardous waste subject to regulation under 40 CFR Part 264 or 265 not authorized in this Permit is prohibited. Compliance with this Permit during its effective term constitutes compliance, for purposes of enforcement, with 40 CFR Parts 264 through 270 for the hazardous waste activities identified and included in this Permit, except for any self-implementing provisions and related regulations promulgated pursuant to HSWA. All other requirements of RCRA, including the generator requirements of 40 CFR Parts 262 and 268, remain applicable to this Facility and are not replaced or affected by this Permit.
- I.A.2. Compliance with the terms of this Permit does not constitute a defense to any action brought under § 3007, 3008, 3013, or 7003 of RCRA (42 USC § 6927, 6928, 6934, or 6973); CERCLA; or any other federal or state law governing protection of public health or the environment. [40 CFR § 270.4]

I.B. Permit Actions and Modifications

- I.B.1. This Permit may be modified, revoked and reissued, or terminated for cause, as specified in 40 CFR §§ 270.41, 270.42, and 270.43.
- I.B.2. Filing a request for a permit modification, revocation and reissuance, or termination, or filing a notification of planned changes or anticipated noncompliance on the part of the Permittee, does not stay the applicability or enforceability of any permit condition.
- I.B.3. Except as provided by specific language in this Permit, any modification or change in a hazardous waste management practice covered by this Permit must be accomplished in accordance with 40 CFR § 270.41 or 270.42.
- I.B.3.a. A written request must be submitted at least sixty (60) calendar days prior to any proposed change in Facility design or operation, or not later than sixty (60) calendar days after an unexpected event has occurred which has affected the Permit. The Administrator will approve, disapprove, or modify this request in accordance with the procedures in 40 CFR Parts 124 and 270.
- I.B.3.b. If the Permittee determines that the corrective action and/or groundwater

monitoring programs required by this Permit no longer satisfy the requirements of the regulations, the Permittee must, within ninety (90) days of such determination, submit a written request for a permit modification to make those changes deemed necessary to satisfy the regulations.

I.C. Severability

I.C.1. The provisions of this Permit are severable. If any provision of this Permit, or the application of any provision of this Permit to any circumstance, is held invalid, the application of such provision to other circumstances and the remainder of this Permit shall not be affected thereby. Invalidation of any statutory or regulatory provision which forms the basis for any condition of this Permit does not affect the validity of any other statutory or regulatory basis for said condition. [40 CFR § 124.16(a)(2)]

I.C.2. In the event that a condition(s) of this Permit is stayed for any reason, the Permittee shall continue to comply with the conditions of the Permit that are not stayed and to comply with conditions of the previous permit which correspond to the stayed condition(s) until final resolution of the stayed condition(s) unless the Administrator determines that compliance with the previous permit's conditions would be technologically incompatible with compliance with other conditions of this Permit which have not been stayed.

I.D. Personal and Property Rights

I.D.1. The Permittee shall hold harmless and indemnify the EPA and its officers, employees, and agents from any claim, suit, or action arising from the activities of the Permittee or its contractors, agents, or employees under this Permit.

I.D.2. Issuance of this Permit does not convey any property rights or any exclusive privilege, nor does issuance of the Permit authorize any injury to persons or property, any invasion of other private rights, or any infringement of federal, state, or local laws or regulations. [40 CFR § 270.30(g)]

I.E. Duty to Comply

I.E.1. The Permittee shall comply with all conditions of this Permit, except to the extent and for the duration such noncompliance is authorized by an emergency permit issued in accordance with 40 CFR § 270.61. Any permit noncompliance, other than noncompliance authorized by an emergency permit, constitutes a violation of RCRA and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; and/or for denial of a permit renewal application.

[40 CFR § 270.30(a)]

I.E.2. Compliance with the terms of this Permit does not constitute a defense to any action brought under Sections 3007, 3008, 3013, and 7003 of RCRA (42 U.S.C. §§ 6927, 6928, 6934, and 6973); CERCLA (42 U.S.C. § 9601 et. seq.); or any other federal or state law governing protection of public health or the environment.

I.F. Duty to Reapply

I.F.1. If the Permittee wishes to continue an activity allowed by this Permit after the expiration date of this Permit, or if the Permittee is required to conduct post-closure care, or if the Permittee is required to continue corrective action obligations, the Permittee must reapply for and obtain a new permit, in accordance with 40 CFR § 270.10(h) and 270.30(b).

I.F.2. The corrective action obligations contained in this Permit will continue regardless of whether the Facility continues to operate or ceases operation and closes. The Permittee is obligated to complete facility-wide corrective action regardless of the operational status of the Facility.

I.G. Continuation of Expiring Permit

I.G.1. This Permit and all conditions herein will remain in effect beyond the Permit's expiration date if the Permittee has submitted a timely, complete application (pursuant to 40 CFR §§ 270.10 and 270.13 through 270.29) and, through no fault of the Permittee, the Administrator has not issued or denied the new permit, as set forth in 40 CFR § 270.51. This Permit may be modified or revoked and reissued as necessary in accordance with 40 CFR § 270.41 and/or 40 CFR § 270.42.

I.G.2. If the Permittee fails to submit a timely, complete application, as required herein, then these Permit terms and conditions will remain in effect beyond the Permit's expiration date until the EPA terminates the terms and/or conditions or the EPA takes other action to terminate the Permittee's obligation to submit an application or to otherwise comply with the terms and/or conditions.

I.H. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for the Permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity to maintain compliance with the conditions of this Permit. [40 CFR § 270.30(c)]

I.I. Duty to Mitigate

In the event of noncompliance with this Permit, the Permittee shall take all reasonable steps to minimize releases to the environment and shall carry out such measures as are reasonable to prevent significant adverse impacts to human health or the environment. Such mitigation shall not be a defense to an enforcement action. [40 CFR § 270.30(d)]

I.J. Proper Operation and Maintenance

The Permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Permittee to achieve compliance with the conditions of this Permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance/quality control procedures.

This provision requires the operation of back-up or auxiliary facilities or similar systems to maintain compliance with the conditions of this Permit. No provision of this Permit shall be interpreted to require the Permittee to obligate funds in violation of the Anti-Deficiency Act, 31 U.S.C. Section 1341. [40 CFR § 270.30(e)]

I.K. Duty to Provide Information

The Permittee shall furnish to the Administrator, within a reasonable time, any relevant information which the Administrator may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this Permit, or to determine compliance with this Permit. The Permittee shall also furnish to the Administrator, upon request, copies of records required to be kept by this Permit. [40 CFR §§ 264.74(a), and 270.30(h)]

I.L. Inspection and Entry

Pursuant to 40 CFR § 270.30(i), the Permittee shall allow the Administrator, or authorized representatives, upon the presentation of credentials and other documents as may be required by law to:

- I.L.1. Enter at reasonable times upon the Permittee's premises where a regulated facility or hazardous waste management activity or corrective action activity is or may be

located or conducted, or where records must be kept under the conditions of this Permit;

- I.L.2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Permit;
- I.L.3. Inspect the Facility at reasonable times, including, but not limited to, any facilities, units, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Permit; and
- I.L.4. Sample or monitor, at reasonable times, for the purposes of assuring Permit compliance, or as otherwise authorized by RCRA, at any location.

I.M. Monitoring and Records

- I.M.1. Samples and measurements taken by the Permittee for the purpose of monitoring shall be representative of the monitored activity.

The method used to obtain a representative sample of the waste to be analyzed must be the most recent appropriate method from Appendix I of 40 CFR Part 261.

The Permittee shall use techniques and procedures consistent with the most recent EPA's guidance when collecting, preserving, shipping, analyzing, tracking, and controlling samples. [40 CFR § 270.30(j)(1)]

- I.M.2. Except as specifically required elsewhere (i.e. Permit Condition I.Y), the Permittee shall retain at the facility, records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports and records required by this Permit, certification required by 40 CFR § 264.73(b)(9), and records of all data used to complete the application for this Permit for a period of at least thirty-six (36) months from the date of the sample, measurement, report, record, certification, or application.

This period may be extended by the Administrator at any time by notification, in writing, to the Permittee and is automatically extended during the course of any unresolved enforcement action regarding the Permit until the successful conclusion of any enforcement action. [40 CFR § 270.30(j)(2)].

- I.M.3. Pursuant to 40 CFR § 270.30(j)(3), records of groundwater and air monitoring information, specific to post-closure and corrective action, shall specify:

- I.M.3.a. The dates, exact places identified by GPS coordinates, and times of sampling or measurements;
- I.M.3.b. The name, title, and affiliation of the individual(s) who performed the sampling or measurements;
- I.M.3.c. The dates the analyses were performed;
- I.M.3.d. The name, title, and affiliation of the individual(s) who performed the analyses;
- I.M.3.e. The analytical techniques or methods used; and
- I.M.3.f. The results of such analyses, including the Quality Assurance/Quality Control (QA/QC) summary.
- I.M.4. The Permittee may substitute analytical methods which are equivalent to those specifically approved for use in this Permit if:
 - I.M.4.a. The Permittee submits to the Administrator a request for substitution of an analytical method(s) which is equivalent to the method(s) specifically approved for use in this Permit, including information demonstrating that the proposed method(s) is equal or superior to the approved analytical method(s) in terms of sensitivity, accuracy, and precision (i.e., reproducibility); and,
 - I.M.4.b. The Administrator notifies the Permittee, in writing, that the substitution of the analytical method(s) is approved. Such approval shall not require a permit modification.

I.N. Reporting Planned Changes

The Permittee shall give notice to the Administrator as soon as possible of any planned physical alterations or additions to the OB/OD unit at the Facility, or of any activity that will physically alter or add to the OB/OD unit or result in noncompliance with permit requirements. [40 CFR § 270.30(l)(1)]

I.O. Reporting Anticipated Noncompliance

The Permittee shall give advance notice, in writing, to the Administrator of any planned change(s) in the permitted Facility or any activity which may result in noncompliance with permit requirements. If advance notice is not possible, then the Permittee shall give notice within twenty-four (24) hours of the time the Permittee becomes aware of the anticipated noncompliance. Such notice does not

authorize any noncompliance with this Permit or modification of this Permit.
[40 CFR § 270.30(1)(2)]

I.P. Transfer of Permit

This Permit may be transferred to a new owner or operator only if it is modified or revoked and reissued pursuant to 40 CFR §§ 270.40(b), 270.41(b)(2), and 270.42.

Before transferring ownership or operation of the facility during its operating life, the Permittee shall notify the new owner or operator in writing of the requirements of 40 CFR Parts 264 and 270 and this Permit. [40 CFR §§ 264.12 and 270.30(1)(3)]

I.Q. Twenty-four Hour Reporting

I.Q.1. The Permittee shall report to the Administrator any noncompliance with the Permit which may endanger human health or the environment. Any such information shall be reported orally within twenty-four (24) hours from the time the Permittee becomes aware of the noncompliance. The report shall include the following:

I.Q.1.a. Information concerning the release of any hazardous waste and/or constituents that may cause an endangerment to public drinking water supplies; and

I.Q.1.b. Any information of a release or discharge of hazardous waste and/or constituents or a fire or explosion relating to hazardous waste management at the Facility which could threaten the environment or human health.

I.Q.2. The description in the oral report of the occurrence and its cause shall include:

I.Q.2.a. Name, address, and telephone number of the owner or operator;

I.Q.2.b. Name, address, and telephone number of the Facility;

I.Q.2.c. Date, time, and type of incident;

I.Q.2.d. Name and quantity of material(s) involved;

I.Q.2.e. The extent of injuries, if any;

I.Q.2.f. An assessment of actual or potential hazards to the environment and human health

outside the facility, where this is applicable;

- I.Q.2.g. The estimated quantity and disposition of recovered material that resulted from the incident; and
- I.Q.2.h. A qualitative review of actions taken, intended responses, and remedial actions.
- I.Q.3. A written submission shall also be provided within five (5) calendar days of the time the Permittee becomes aware of the noncompliance. The written submission shall contain a description of the noncompliance, its extent, and its cause; the period(s) of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. The Administrator may waive the five (5) day written notice requirement in favor of a written report within fifteen (15) days.

I.R. Other Noncompliance

The Permittee shall report to the Administrator all other instances of noncompliance not otherwise required to be reported in the monitoring reports, compliance schedules, and twenty-four (24) hour reports above, at the time monitoring reports are submitted. The reports shall contain the information listed in Permit Condition I.Q. [40 CFR § 270.30(1)(10)]

I.S. Other Information

Whenever the Permittee becomes aware that it failed to submit any relevant facts in the permit application or submitted incorrect information in a permit application or in any report to the Administrator, the Permittee shall promptly submit such facts or information to the Administrator. [40 CFR § 270.30(1)(11)].

I.T. Signature and Certification

Failure to submit the information required in this Permit, or falsification of any submitted information, is grounds for enforcement, in accordance with 40 CFR § 270.43.

The Permittee shall ensure that all plans, reports, notifications, and other submissions to the Administrator required in this Permit are signed and certified, in accordance with 40 CFR § 270.11.

I.U. Reports, Notification and Submissions

All reports, notifications, or other submissions which are required by this Permit to be sent or given to the Administrator must be sent by email, electronic file transfer, certified mail, or given directly to:

Brett Feldhahn, RCRA Project Manager
Land, Chemicals and Redevelopment Division
U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue, Suite 155, MS 15-H04
Seattle, Washington 98101
Telephone number: (206) 553-2899

Note: This is the current address and phone number and may change without modification of the Permit.

I.V. Confidential Information

The Permittee may claim confidential any information required to be submitted by this Permit to the extent allowed by and in accordance with 40 CFR §§ 260.2 and 270.12.

I.W. Documents to be Maintained at the Facility

The Permittee shall maintain at the Facility until closure and corrective action are completed and certified by an independent registered professional engineer, whichever comes later, and have readily available for inspection the following documents, and amendments, revisions, and modifications to these documents:

- I.W.1. Contingency Plan (Attachment 3 to this Permit) as required by 40 CFR § 264.53(a) and this Permit;
- I.W.2. Closure Plan (Attachment 7 to this Permit), as required by 40 CFR § 264.112(a) and this Permit;
- I.W.3. Inspection schedule(s), as required by 40 CFR § 264.15(b) (2);
- I.W.4. This Hazardous Waste Management Facility Permit, including all attachments;
- I.W.5. RCRA Part B Permit Application, dated December 2021, including all attachments;

- I.W.6. Assessment reports for all incidents that require implementation of the Contingency Plan;
- I.W.7. Record of all spills and releases at and/or from the Facility;
- I.W.8. Copies of all other environmental permits associated with the Facility;
- I.W.9. Well construction, maintenance, and replacement records; and
- I.W.10. All sampling records and data analysis, including raw data.

PART II. CLOSURE OF THE OB/OD UNIT

II.A. Prohibition of Use of OB/OD Unit

Open burning, open detonation, and other hazardous waste treatment is prohibited at the OB/OD unit.

II.B. Environmental Performance Standards for OB/OD Unit, 40 CFR Part 264 Subpart X

Reserved.

II.C. Amendment of Closure Plan

At least ninety (90) days prior to the date when the use of the Range will cease, or within ninety (90) days after a request from the Administrator, the Permittee shall submit to the EPA for review and approval a revised closure plan, including a schedule, for closure of the OB/OD unit, in accordance with 40 CFR § 264.112. The revised closure plan must meet the requirements of 40 CFR §§ 264.111 through 116. The EPA will modify the Permit to incorporate the revised closure plan in accordance with the applicable procedures in 40 CFR Parts 124 and 270.

II.D. Notification of Closure

II.D.1. The Permittee shall notify the Administrator in writing at least forty-five (45) days prior to the date on which the Permittee expects to begin closure of the OB/OD unit, in accordance with 40 CFR § 264.112(d).

II.D.2. Removal of waste or decontamination or dismantling of equipment at the OB/OD unit is prohibited until the Permit has been modified to include the revised and approved closure plan as specified in permit condition II.C and notification provided to the Administrator in accordance with Permit Condition II.D.1.

II.D.3. Once the Permit has been modified to include the revised closure plan as specified in Permit Condition II.B, and notification provided as specified in II.D.1, the Permittee shall implement closure of the OB/OD unit in accordance with the requirements of 40 CFR §§ 264.111 through 116 and the approved revised closure plan.

II.E. Disposal or Decontamination of Equipment, Structures, and Soils

The Permittee shall decontaminate and/or remove and dispose of all contaminated equipment, structures, and/or soils, as required by 40 CFR § 264.114 and the approved revised closure plan.

II.F. Certification of Closure

The Permittee shall certify that the hazardous waste OB/OD unit has been closed, in accordance with the specifications for closure in the approved revised closure plan, as required by 40 CFR § 264.115.

PART III. CORRECTIVE ACTION FOR SOLID WASTE MANAGEMENT UNITS

Section 3004(u) of RCRA, 42 U.S.C. § 6924, and 40 CFR § 264.101, require that all Permits issued after November 8, 1984, address corrective action for all releases of hazardous waste or hazardous constituents from any SWMU at a treatment, storage, or disposal Facility seeking the Permit, regardless of when the waste was placed in the unit or whether the unit is closed. Those sections further require that Permits issued under Section 3005 of RCRA, 42 U.S.C. § 6925, contain schedules of compliance for corrective action (where corrective action cannot be completed prior to Permit issuance). Section 3004(v) of RCRA, 42 U.S.C. § 6924(v), authorizes the Administrator to require that corrective action be taken by the Facility Owner or Operator beyond the Facility boundary when necessary to protect human health and the environment, unless the Owner or Operator demonstrates to the Administrator's satisfaction that permission to undertake such action, despite the owner/operator's best efforts, was denied. Section 3005(c)(3) of RCRA, 42 U.S.C. § 6925(c)(3), requires that each Permit issued under that section shall contain terms and conditions as the Administrator determines necessary to protect human health and the environment. The Administrator has delegated authority to perform all actions necessary to enforce this Permit to the Director of the Land, Chemicals and Redevelopment Division, the EPA, Region 10 (hereafter referred to as "Director") or the Director's designated representative.

On March 13, 1989 (54 FR 10520), the EPA adopted a policy for listing Federal Facility sites that are eligible for the National Priorities List (NPL), even if they are also subject to the corrective action authorities of Subtitle C of RCRA. The NPL is the EPA's list of CERCLA (more commonly known as *Superfund*) sites that pose the greatest threat to human health and the environment, based on a site assessment process. The EPA added Elmendorf Air Force Base and Fort Richardson to the NPL in 1990 and 1994, respectively. The facilities were merged in 2010, thereby becoming Joint Base Elmendorf-Richardson. The Department of Defense (DOD) established the Defense Environmental Restoration Program to address sites that are within the responsibility of the DOD under CERCLA, as amended by the Superfund Amendments and Reauthorization Act (SARA). The Air Force, the EPA, and the Alaska Department of Environmental Conservation (ADEC) signed a CERCLA Federal Facilities Agreement (FFA) for Elmendorf AFB in November 1991. The Army, the EPA, and ADEC signed a CERCLA FFA for Fort Richardson in December 1994. The FFAs provide a framework for CERCLA response actions to be performed at JBER, including the investigation and cleanup of contamination. Though the facilities have been merged, the FFAs currently remain separate, and the sites will continue to be managed under the terms of the original FFAs. If the original FFAs are amended, then this Permit will be modified to incorporate the amended FFAs.

Consequently, the Facility is subject to RCRA, CERCLA and ADEC's applicable cleanup authorities. The EPA will coordinate actions under RCRA and CERCLA to address overlapping cleanup requirements.

The Permittee shall, pursuant to § 3004(u) of RCRA and regulations codified at 40 CFR § 264.101, institute corrective action as necessary to protect human health and the environment for all releases of hazardous waste and/or constituents from any SWMU at the Facility regardless of the time at which waste was placed in such unit. The Fort Richardson Federal Facility Agreement and the Elmendorf Air Force Base Federal Facility Agreement, entered into by the Permittee and the Administrator pursuant to § 120(e)(2) of CERCLA, are existing mechanisms currently being used to investigate and clean up releases of hazardous waste and/or constituents as necessary to protect human health and the environment at the Facility. Investigations and cleanups conducted under the FFAs are expected to meet or exceed all applicable or relevant and appropriate state and federal requirements, including RCRA. The FFAs are incorporated by reference into this Permit and included as Attachments 6 and 7.

The corrective action for the Facility will be satisfied by performance of actions pursuant to the FFAs, except for those SWMUs not covered by the FFAs as specified in paragraphs 1 and 2 below:

1. The Corrective Action permit conditions (Permit Conditions III.A through III.K, below), apply to: those SWMUs that the Parties to the FFAs transfer to this RCRA Permit; newly discovered SWMUs formally identified as outside the scope of the FFAs; and newly discovered SWMUs that are not expressly included in writing as within the scope of the FFAs.
2. The Corrective Action permit conditions (Permit Conditions III.A through III.K, below) also apply to those SWMUs that are discovered or have not completed corrective action after termination of the FFAs.

III.A. Standard Conditions

- III.A.1. The Permittee must take corrective action as necessary to protect human health and the environment from all releases of hazardous waste and/or constituents from any SWMU at the Facility, regardless of the time at which waste was placed in such unit, in accordance with § 3004(u) of RCRA, 42 USC § 6924(u), 40 CFR §§ 264.90(a) and 264.101.
- III.A.2. The Permittee must take corrective action beyond the facility property boundary where necessary to protect human health and the environment, in accordance with § 3004(v) of RCRA, 42 USC § 6924(v), and 40 CFR § 264.101. The Permittee must exhaust all options to implement corrective action beyond the facility property boundary, including but not limited to purchasing affected property by eminent domain, relocating affected populations to new housing, and offering to finance and construct satisfactory water supply utilities to affected properties before making a demonstration, in accordance with 40 CFR § 264.101.

- III.A.3. All plans and schedules for corrective action required by the conditions of this Permit are, upon approval of the Administrator, incorporated into this Permit by reference and become an enforceable part of this Permit. Any noncompliance with such approved plans and schedules shall be deemed noncompliance with this Permit.
- III.A.4. If the Administrator determines that further corrective action beyond the requirements of this Permit is warranted, then the Administrator shall modify this Permit according to the permit modification processes under 40 CFR § 270.41.
- III.A.5. All raw data, such as laboratory reports, geological and hydrogeological investigations, bench-scale or pilot-scale data, and other supporting information gathered or generated during activities undertaken pursuant to this Permit, including any reissued permits, shall be provided at the request of the Administrator.

III.B. Reporting Requirements

- III.B.1 The Permittee shall submit to the Administrator a signed and certified annual corrective action progress report each December which shall contain:
- III.B.1.a. A discussion and summary of all corrective action-related activities undertaken during the time period, including remediation activities conducted under the FFAs;
- III.B.1.b. Summaries of all problems or potential problems encountered during the reporting period and the actions taken to rectify these problems;
- III.B.1.c. A list of construction projects that generated regulated hazardous waste and their locations; and
- III.B.1.d. Projected work for the next reporting period.
- III.B.2. The Permittee shall maintain copies of other corrective action reports (e.g., inspection reports); geological and hydrogeological investigations; records of groundwater monitoring wells, including boring logs, and associated groundwater surface elevations; and all laboratory data, including raw data, for the active life of the Facility, and shall make them available to the Administrator upon request.

III.B.3. The Administrator may require the Permittee to conduct new or more extensive assessments, investigations, or studies, as needed, based on information provided in these progress reports or other supporting information.

III.C. Newly-Identified, Newly-Discovered, or Newly-Created Solid Waste Management Units

III.C.1. The Permittee shall notify the Administrator in writing of any newly-identified, newly-discovered, or newly created SWMU(s). This notice shall be provided no later than fifteen (15) calendar days after discovery of the newly-identified, newly-discovered, or newly-created SWMU(s).

III.C.2. Within ninety (90) calendar days after the notification provided in accordance with Permit Condition III.C.1., the Permittee shall prepare a SWMU Assessment Report for the SWMU. At a minimum, the Report shall provide the following information for each newly-identified, newly-discovered, or newly-created SWMU:

III.C.2.a. The location of each such SWMU in relation to other SWMUs, building numbers, or other descriptive landmarks;

III.C.2.b. The type and function of the SWMU;

III.C.2.c. The general dimensions, capacities, and structural description of the SWMU (supply all available drawings);

III.C.2.d. The period during which the SWMU was operated;

III.C.2.e. Waste characterization information for all wastes that have been or are being managed at the SWMU; and

III.C.2.f. A description of any release (or suspected release) of hazardous waste and/or constituents originating from the SWMU, including planned or unplanned releases to the air and any other media. Include information on the date of release, type of hazardous waste and/or constituents, quantity released, nature of the release, extent of release migration, and cause of release (e.g., overflow, broken pipe, tank leak). Also provide any available data which characterizes the nature and extent of environmental contamination, including the results of air, soil and/or groundwater sampling and analysis efforts. Also submit any existing monitoring information that shows that a release of hazardous waste and/or constituents has not occurred or is not occurring.

III.C.3. Based on the results of this Report, the Administrator shall determine the need for further investigations at specific unit(s) covered in the SWMU Assessment Report. If the Administrator determines that such investigations are needed, the Administrator will require the Permittee to prepare a RCRA Facility Investigation (RFI) workplan and/or RFI report, within a specified time and consistent with the EPA's guidance, subject to the Administrator's approval. The RFI Workplan and/or Report are subject to the dispute resolution procedures of Permit Condition III.K. If the Administrator determines that corrective measures are required, the Permittee shall submit a request for a permit modification to implement corrective measures.

III.D. Newly-Discovered Releases at Solid Waste Management Units

III.D.1. The Permittee shall notify the Administrator, in writing, of any newly-discovered release(s) of hazardous waste and/or constituents from any SWMU. The Permittee shall investigate and, if necessary, remediate the discovered release(s). Such releases may be from newly-identified or newly-created SWMUs, from SWMUs at which the Administrator had previously determined that no further investigation was necessary, or from SWMUs investigated as part of this Permit. This notification shall be submitted in two parts:

III.D.1.a. First, within fifteen (15) calendar days of discovery of the release, the Permittee shall submit in writing an initial notification of the discovery. This notification shall alert the Administrator to the immediacy and extent of the threat to human health and/or the environment.

III.D.1.b. Second, within sixty (60) days of discovery of the release, the Permittee must submit a written report. The report shall discuss the Permittee's efforts to investigate and/or remediate the discovered release and shall specifically include:

- i. the concentrations and estimated quantities of any hazardous waste and/or constituents released;
- ii. the known, or expected, pathway(s) through which the contamination is migrating (or may migrate), and the extent, rate, and direction of that migration;
- iii. the projected fate and transport of the release;
- iv. the likely exposure pathway(s) for potential receptors, and the consequences of exposure to these receptors; and

- v. an outline of proposed Interim Corrective Measures to control the release, as well as a schedule for implementing the Interim Corrective Measures. The schedule must be justified by a discussion of possible consequences arising from any delay in implementing Interim Corrective Measures.

III.D.2. Within ninety (90) days of discovery of a release, the Permittee shall submit a Report describing the Interim Corrective Measures activities taken to date. This Report shall include the reporting requirements specified in Permit Condition III.B. If the Administrator determines that additional investigation or corrective measures are required, the Permittee shall submit a request for a permit modification to investigate and perform additional Interim Corrective Measures, or the Administrator may initiate a permit modification.

III.E. RCRA Facility Investigation (RFI) Workplan

III.E.1. If the Administrator determines that an RFI is necessary for any newly-discovered or newly-created SWMU or for a newly discovered release under Permit Condition III.C. or III.D., or needed to further investigate an existing SWMU, the Permittee shall submit an RFI Workplan to the Administrator. The RFI Workplan must identify the SWMUs, releases of hazardous waste and/or constituents, and media of concern which require corrective action. The RFI Workplan, which must be approved by the Administrator, should be consistent with the EPA's current corrective action guidance, including RCRA Facility Investigation (RFI) Guidance, OSWER Directive 9502.00-6C, dated May 1989.

III.E.1.a. The RFI Workplan shall describe the objectives of the investigation and the overall technical and analytical approach to completing all actions necessary to characterize the nature, direction, rate, movement, and concentration of releases of hazardous waste and/or constituents from specific SWMUs or groups of SWMUs, and their actual or potential receptors. The RFI Workplan shall detail all proposed activities and procedures to be conducted at the unit, the schedule for implementing and completing such investigations, an outline of the RFI Report required in Permit Condition III.F.1, and the overall management of the RFI. The RFI Workplan shall include screening levels consistent with the EPA's health and ecological based guidance effective at the time of implementation.

III.E.1.b. In addition, the RFI Workplan shall discuss sampling and data collection quality assurance and data management procedures, including formats for documenting and tracking data and other results of investigations, and health and safety procedures for conducting the field work.

III.E.2. After the Permittee submits the RFI Workplan, the Administrator may either approve or disapprove the RFI Workplan in writing. If the Administrator disapproves the RFI Workplan, the Administrator shall either: (1) notify the Permittee in writing of the deficiencies in the RFI Workplan and specify a due date for submittal of a revised RFI Workplan; or (2) revise and approve with modification the RFI Workplan and notify the Permittee of the revisions. Submittals required by this permit condition do not require a permit modification, and are subject to the dispute resolution procedures in Permit Condition III.K.

III.E.3. The Administrator may review for approval as part of the RFI Workplan any plans developed pursuant to Permit Condition III.C.3., addressing further investigations of newly-identified SWMUs, or Permit Condition III.D., addressing new releases from previously-identified SWMUs. The Administrator may modify this Permit according to the permit modification procedures in 40 CFR § 270.41 to incorporate these SWMUs and releases into the RFI Workplan.

III.E.4. After the Permittee has received written approval from the Administrator for the RFI Workplan, the Permittee shall begin implementation of the RFI according to the schedules specified in the approved RFI Workplan. The RFI shall be conducted in accordance with the approved RFI Workplan.

III.F. RCRA Facility Investigation Final Report

III.F.1. The Permittee shall develop and submit a RFI Final Report. The Report should be consistent with the EPA's current corrective action guidance, including RCRA Facility Investigation Guidance, OSWER Directive 9502.00-6C, dated May 1989.

III.F.2. Within ninety (90) calendar days after the completion of the RFI and/or receipt of validated data, the Permittee shall submit an RFI Final Report to the Administrator. The RFI Final Report shall describe the procedures, methods, and results of all facility investigations of SWMUs and their releases, including information on the type and extent of contamination at the Facility, sources and migration pathways, and actual or potential receptors. The RFI Final Report shall present all information necessary to support further corrective action decisions at the unit.

III.G. Additional Interim Corrective Measures

III.G.1. If at any time the Administrator determines that a release or potential release of hazardous waste and/or constituents at the Facility poses a threat to human health or the environment, the Administrator will notify the Permittee that it must submit a Workplan, including a schedule, for conducting Interim Corrective Measures

designed to minimize the threat to human health and the environment. Upon the Administrator's approval of the Workplan, the Permittee shall implement the approved Interim Corrective Measures according to the approved schedule. Interim Corrective Measures are subject to the dispute resolution procedures in Permit Condition III.K. Implementation by the Permittee of treatment or containment activities during "immediate response," as defined in 40 CFR § 264.1(g) (2), to a discharge of hazardous waste and/or constituents, or an imminent and substantial threat of a discharge of hazardous waste and/or constituents, or a discharge of material which, when discharged, becomes a hazardous waste, is not subject to this Permit. Actions taken to address the discharge after the immediate response is completed are subject to this Permit.

III.G.2. The following factors may be considered by the Administrator in determining the need for additional Interim Corrective Measures:

III.G.2.a. Time required to develop and implement a final remedy;

III.G.2.b. Actual and potential exposure of human and environmental receptors;

III.G.2.c. Actual and potential contamination of drinking water supplies and sensitive ecosystems;

III.G.2.d. Potential for further degradation of the medium absent the additional Interim Corrective Measures;

III.G.2.e. Presence of hazardous waste in containers or tanks that may pose a threat of release;

III.G.2.f. Presence and concentration of hazardous waste and/or constituents in soils, ground water, surface water, or air;

III.G.2.g. Weather conditions that may affect the current levels of contamination or potential for exposure;

III.G.2.h. Risks of fire, explosion, or accident; and

III.G.2.i. Other situations that may pose a threat to human health and the environment.

III.H. Corrective Measures Study

III.H.1. If the Administrator has reason to believe that a SWMU has released concentrations of hazardous constituents in excess of the EPA's current health-

and ecological-based levels, or if the Administrator determines that contaminants present at levels below the EPA's current health-based levels pose a threat to human health and the environment given site-specific exposure conditions, the Administrator may require a Corrective Measures Study (CMS) and, if so, shall notify the Permittee in writing. This notice shall identify the hazardous constituents(s) which have exceeded action levels as well as those which have been determined to present a potential threat to human health and the environment given site-specific exposure conditions.

III.H.2. No later than sixty (60) calendar days after the Permittee has received notification from the Administrator, under Permit Condition III.H.1., of the need for a CMS, the Permittee shall submit to the Administrator a schedule for conducting a CMS. Upon the Administrator's approval of the schedule, the Permittee shall implement the CMS according to the approved schedule. The CMS should be consistent with the EPA's guidance.

III.H.3. The Permittee shall submit a CMS Final Report according to the schedule approved by the Administrator pursuant to Permit Condition III.H.2. The CMS Final Report shall summarize the results of the investigations for each remedy, and of any bench-scale or pilot tests conducted. The CMS Final Report must include an evaluation of each remedial alternative, and a proposal for corrective measures implementation. The CMS Final Report shall contain adequate information to support the Administrator in the remedy selection decision-making process, described in Permit Condition III.I.

III.H.4. Based on preliminary results and the CMS Final Report, the Administrator may require the Permittee to evaluate additional remedies or particular elements of one or more proposed remedies and modify the CMS Final Report accordingly, within a timeframe specified by the Administrator. Modifications to the CMS Final Report are subject to the dispute resolution procedures of Permit Condition III.K.

III.I. Remedy Selection

Based on the results contained in the RFI Final Report, CMS Final Report, or any further evaluations of additional remedies, the Administrator will propose to select a remedy that will: (1) be protective of human health and the environment; (2) meet the concentration levels of hazardous constituents in each medium that the remedy must achieve to be protective of human health and the environment; (3) control the source(s) of release(s) so as to reduce or eliminate, to the maximum extent practicable, further releases that might pose a threat or potential threat to human health and the environment; and (4) meet all applicable waste management requirements.

III.J. Permit Modification for Remedy

Based on information the Permittee submits in the RFI Final Report, the CMS Final Report, or other information, the Administrator will initiate a modification to this Permit for selection and implementation of the remedy, pursuant to 40 CFR § 270.41. The modification will include conditions that require submittal of corrective measures design, implementation, and monitoring plans. The Permittee shall implement the selected remedy after the modification is effective and the Administrator has approved the corrective measures design, implementation, and monitoring plans.

III.K. Dispute Resolution

III.K.1. If the Administrator rejects or modifies, in whole or in part, any submission required by this Permit where dispute resolution procedures are identified as applicable, the following procedures shall apply:

III.K1.a. The Administrator will use best efforts to notify the Permittee in writing of either a rejection with comments of a submission or modification of a submission (Notice) no later than sixty (60) days from the date the submission is received. To the extent appropriate, such Notice will:

- i. Identify problems with the submission and any modifications to be made;
- ii. Provide an explanation and documentation or data to support the complete or partial rejection of, and any modification to, the submission; and
- iii. Identify a date by which either objections to the Notice or a document revised in accordance with comments that includes any required modifications must be received from the Permittee. Such date shall not be less than thirty (30) calendar days from the date the Permittee receives the Notice under Permit Condition III.K.1.a.

III.K.1.b. If the Permittee submits objections to the Notice, the Permittee and the EPA staff person(s) responsible for reviewing the submission (the “permitting staff”) will attempt to resolve any disputes over the submission informally. If requested by the Permittee, a meeting will take place between the permitting staff and the Permittee to discuss the submission. Unless otherwise agreed to by the permitting staff in writing, the EPA will use best efforts to hold the meeting at the EPA, Region 10's office in Seattle, Washington, or by teleconference, no later than sixty (60) days from receipt of Permittee’s written request to discuss the submission.

III.K.1.c. If agreement is not reached between the permitting staff and the Permittee within fourteen (14) calendar days of the date the permitting staff receives the Permittee's objections to the Notice (the "informal dispute resolution period"), the Permittee must submit either written arguments and evidence to the EPA official authorized to make final permit decisions (the Decision Maker) or a document revised in accordance with comments that includes any required modifications. The written arguments and evidence or revised document shall be submitted to the Decision Maker within thirty (30) calendar days of the end of the informal dispute resolution period at the following address:

Director
Land, Chemicals and Redevelopment Division
U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101
Telephone number: (206) 553-1271

III.K.1.d. If written arguments and evidence are submitted by the Permittee to the Decision Maker, the Decision Maker will promptly resolve the dispute. The Decision Maker's resolution of the dispute will include a written response to the evidence and arguments submitted by the Permittee.

The Permittee shall comply with the Decision Maker's decision regardless of whether the Permittee agrees with the decision. The Decision Maker's resolution of the dispute is not subject to administrative or judicial appeal.

III.K.2. Unless otherwise agreed to by the Administrator, invocation of dispute resolution by the Permittee shall not extend, postpone, or affect in any way any obligation of the Permittee under this Permit not directly in dispute.