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**U.S. EPA REGION 3
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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 3
Philadelphia, Pennsylvania 19103**

In the Matter of:	:
	:
Action Manufacturing Co.	: U.S. EPA Docket No. RCRA-03-2026-0085
190 Rittenhouse Cir.	:
Bristol, PA 19007	: Proceeding under Section 3008 of the
	: Resource Conservation and Recovery Act, 42
Respondent.	: U.S.C. § 6928
	:
Atglen Facility	:
500 Bailey Crossroads Rd.	:
Atglen, PA 19310	:
	:
and	:
	:
Bristol Facility	:
190 Rittenhouse Cir.	:
Bristol, PA 19007	:
	:
Facilities.	:

CONSENT AGREEMENT

PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region 3 ("Complainant") and Action Manufacturing Co. ("Respondent") (collectively, the "Parties"), pursuant to Section 3008 of the Resource Conservation and Recovery Act ("RCRA" or the "Act"), 42 U.S.C. § 6928, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22. Section 3008 of RCRA, 42 U.S.C. § 6928, authorizes the Administrator of the U.S. Environmental Protection Agency to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated this authority to the Regional Administrator who, in turn, has delegated the authority to enter into agreements concerning administrative penalties to the Complainant. This Consent Agreement and the attached Final Order (hereinafter, jointly referred to as the "Consent Agreement and Final Order") resolve Complainant's civil penalty claims against Respondent under RCRA Subtitle C, 42 U.S.C. §§ 6921-6939e, for the violations alleged herein.

2. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

JURISDICTION

3. The U.S. Environmental Protection Agency ("EPA") has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.
4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(4).
5. The EPA sent a letter via email to the Pennsylvania Department of the Environmental Protection ("PADEP") to give prior notice of this action in accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

GENERAL PROVISIONS

6. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order.
7. Except as provided in Paragraph 6, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.
8. Respondent agrees not to contest the jurisdiction of the EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this Consent Agreement and Final Order.
9. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and Final Order and waives its right to appeal the accompanying Final Order.
10. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.
11. Respondent shall bear its own costs and attorney's fees in connection with this proceeding.
12. By signing this Consent Agreement, Respondent waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the Final Order accompanying the Consent Agreement.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

13. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.
14. On January 15, 1986, pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), and 40 C.F.R. Part 271, Subpart A, the EPA granted the Commonwealth of Pennsylvania final authorization to administer the hazardous waste management program, set forth in the Pennsylvania Code, Title 25, Chapters 260a-266a, 266b, 268a and 270a, in lieu of the federal hazardous waste management program established under RCRA Subtitle C, 42 U.S.C. §§ 6921-6939e. Through this final authorization, the provisions of the Pennsylvania Hazardous Waste Management Regulations (“PaHWMR”) became requirements of RCRA Subtitle C and are, accordingly, enforceable by the EPA on and after the effective date pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a). The EPA authorized a revised Pennsylvania hazardous waste management program effective November 27, 2000, March 22, 2004, and June 29, 2009, and, accordingly, the provisions of the authorized revised PaHWMR are enforceable by the EPA on and after those dates pursuant to § 3008(a) of RCRA, 42 U.S.C. § 6928(a). The authorized PaHWMR prospectively incorporates by reference, with certain exceptions, the current provisions of Title 40 of the Code of Federal Regulations. *See* 51 Fed. Reg. 1791 (Jan. 15, 1986); 65 Fed. Reg. 57734 (Sep. 26, 2000); 69 Fed. Reg. 2674 (Jan. 20, 2004); and 74 Fed. Reg. 19453 (Apr. 29, 2009).
15. Respondent is a corporation organized under the laws of the state of Delaware. As such, Respondent is now, and was at the time of the violations alleged, a “person,” as defined in 25 Pa. Code § 260a.10.
16. Respondent’s facilities are located at 500 Bailey Crossroads Road, Atglen, PA 19310 (the “Atglen Facility”) and 190 Rittenhouse Circle, Bristol, PA 19007 (the “Bristol Facility”) (collectively, the “Facilities”). The Facilities are manufacturers of precision ordnance products.
17. At all times relevant to the allegations set forth in this Consent Agreement, Respondent is, and has been, the “operator” and the “owner” of the Facilities, as defined in 40 C.F.R. § 260.10, which 25 Pa. Code § 260a.1(a) incorporates by reference.
18. At all times relevant to the allegations set forth in this Consent Agreement, the Facilities are, and have been, “facilities,” as defined in 25 Pa. Code § 260a.10.
19. At all times relevant to the allegations set forth in this Consent Agreement, and as described below, Respondent is, and has been, a “generator” of “solid waste” and

- “hazardous waste” at the Facilities, as defined in 40 C.F.R. § 260.10, which 25 Pa. Code § 260a.1(a) incorporates by reference.
20. At all times relevant to the allegations set forth in this Consent Agreement, the Atglen Facility identified as a “large quantity generator” (“LQG”) of hazardous waste, with RCRA ID Number PAD096844311, as defined in 40 C.F.R. § 260.10, which 25 Pa. Code § 260a.1(a) incorporates by reference.
 21. At all times relevant to the allegations set forth in this Consent Agreement, the Bristol Facility identified as a “small quantity generator” of hazardous waste, with RCRA ID Number PAD069881076, as defined in 40 C.F.R. § 260.10, which 25 Pa. Code § 260a.1(a) incorporates by reference.
 22. At all times relevant to the allegations set forth in this Consent Agreement, Respondent did not have a RCRA Part B permit to treat, store, or dispose of hazardous waste for the Bristol Facility, nor did they have interim status for the Bristol Facility.
 23. At all times relevant to the allegations set forth in this Consent Agreement, Respondent had a RCRA Part B permit to store explosive hazardous waste generated at the Atglen Facility and treat that explosive hazardous waste in an on-site incinerator. PADEP issued the RCRA Part B permit, Permit No. PAD096844311, to Respondent for the Atglen Facility. The permit was effective November 1, 2013 and expired November 1, 2023. PADEP issued a Permit Modification that was effective August 8, 2019 and expired November 1, 2023. The Permit Modification allows Respondent to ship explosive hazardous waste from the Bristol Facility to the Atglen Facility for storage and treatment. The permit was administratively extended until PADEP issued a renewal permit with an effective date of January 31, 2025 and an expiration date of January 31, 2035.
 24. From May 16, 2023 to May 17, 2023, EPA inspectors (the “Inspectors”) conducted a compliance evaluation inspection at the Atglen Facility (the “Atglen Inspection”) to examine Respondent’s compliance with RCRA Subtitle C set forth in 42 U.S.C. §§ 6921-6939e, the federal hazardous waste regulations set forth at 40 C.F.R. Parts 260-266, 268 and 270-273, and the federally authorized PaHWMR set forth at Pennsylvania Code, Title 25, Chapters 260a-266a, 266b, 268a and 270a.
 25. On July 18, 2023 and September 27, 2023, the Inspectors conducted a compliance evaluation inspection at the Bristol Facility (the “Bristol Inspection”) to examine Respondent’s compliance with RCRA Subtitle C set forth in 42 U.S.C. §§ 6921-6939e, the federal hazardous waste regulations set forth at 40 C.F.R. Parts 260-266, 268 and 270-273, and the federally authorized PaHWMR set forth at Pennsylvania Code, Title 25, Chapters 260a-266a, 266b, 268a and 270a.

26. Based on the EPA's findings during the Bristol and Atglen Inspections and other information Respondent provided to the EPA, the EPA concludes that Respondent violated certain requirements and provisions of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939e, and certain federally authorized PaHWMR requirements promulgated thereunder, as enumerated below.
27. To avoid litigation, Respondent entered negotiations with the EPA resulting in this Consent Agreement and Final Order.

Count 1
Operating Without a Permit

28. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
29. Pursuant to 40 C.F.R. § 270.1(b), which 25 Pa. Code § 270a.1 incorporates by reference, no person may own or operate a facility for the treatment, storage, or disposal of hazardous waste without first obtaining a permit or interim status for such facility.
30. Pursuant to 40 C.F.R. § 262.17, which 25 Pa. Code § 262a.10 incorporates by reference, an LQG "may accumulate hazardous waste on site without a permit or interim status, and without complying with the requirements of Parts 124, 264 through 267, and 270...provided that" the LQG meets the conditions for exemption listed in 40 C.F.R. § 262.17.
31. Although Respondent retains a RCRA Part B permit for the Atglen Facility, certain operations are not covered by the existing RCRA Part B permit. Therefore, Respondent did not have a permit or interim status for these certain operations and must qualify for the generator exemptions pursuant to 40 C.F.R. § 262.17, which 25 Pa. Code § 262a.10 incorporates by reference.
32. Respondent failed to meet the requirements listed in 40 C.F.R. § 262.17 and was therefore accumulating hazardous waste on site in violation of 40 C.F.R. § 270.1(b), which 25 Pa. Code § 270a.1 incorporates by reference, through the following:
 - a. Failure to Keep Containers of Hazardous Waste Closed
 - i. Pursuant to 40 C.F.R. § 262.17(a)(1)(iv)(A), which 25 Pa. Code § 262a.10 incorporates by reference, an LQG "may accumulate hazardous waste on site...for no more than 90 days" in containers, provided that the containers are always "closed during accumulation, except when it is necessary to add or remove waste."

- ii. At the time of the Atglen Inspection, the Inspectors observed the following open containers of hazardous waste:
 - 1. In Building 20, a red 5-gallon pail about one-third full of used alcohol wipes labeled as D008 hazardous waste "Primary Paper Waste," with a shower cap-style plastic cover that was partially open;
 - 2. In Building 20, a vac box filled up to about a quarter with liquid, with an open connection in the lid, attached to the inactive "PA506" machine, and labeled as D003 and D008 hazardous waste "Primary Wet Waste";
 - 3. In Building 24 below a sink drain with no plug, a 5-gallon pail with about an inch of liquid labeled as D008 hazardous waste "Primary Waste Water" and connected to the sink drain with a hose going through a slit (that was larger than the diameter of the hose, creating gaps on either side) in the flexible plastic cover of the pail;
 - 4. In Building 24 sitting next to a sink, another 5-gallon pail with about an inch of liquid labeled D008 hazardous waste "Waste Woder [sic]" and with a slit that had no hose connection;
 - 5. In the "Explosives 25" room of Building 24, a 5-gallon pail with two inches of liquid labeled as D008 hazardous waste "Primary Wet Waste" and connected to a sink with a hose going through a slit in the flexible plastic cover of the pail;
 - 6. In the "East" room of Building 24, another 5-gallon pail with two inches of liquid labeled as D008 hazardous waste "Primary Wet Waste" and connected to a sink with a hose going through a slit in the flexible plastic cover of the pail;
 - 7. On a rack in the "X-Ray Room" of Building 65, a small cardboard tray labeled as hazardous waste "M69 Elect. Det." and holding one rejected detonator;
 - 8. In the tank area of Building 55 on the primary explosive side, one drum with about five inches of liquid labeled as D008 hazardous waste "Primary Waste" and "Filter Bags," dated April 5, 2023, with three filter socks suspended inside; and

9. In the tank area of Building 55 on the secondary explosive side, another drum with about two inches of liquid labeled as D003 hazardous waste "Secondary Wastewater," dated April 5, 2023, with filter socks suspended inside.
- iii. At the time of the Atglen Inspection, Respondent failed to comply with 40 C.F.R. § 262.17(a)(1)(iv)(A), which 25 Pa. Code § 262a.10 incorporates by reference, by failing to keep containers of hazardous waste closed during accumulation, except when it is necessary to add or remove waste.
- b. Failure to Obtain Written Assessments By a Qualified Professional Engineer
 - i. Pursuant to 40 C.F.R. § 262.17(a)(2), which 25 Pa. Code § 262a.10 incorporates by reference, an LQG "may accumulate hazardous waste on site...for no more than 90 days" in tanks, provided that the LQG complies "with the applicable requirements of Subpart J" of 40 C.F.R. Part 265, with exclusions that do not apply here.
 - ii. Pursuant to 40 C.F.R. § 265.192, the owner or operator of new tank systems "must obtain a written assessment reviewed and certified by a qualified Professional Engineer...attesting that the system has sufficient structural integrity and is acceptable for the storing and treating of hazardous waste." Pursuant to 40 C.F.R. § 260.10, which 25 Pa. Code § 260a.10 incorporates by reference with an applicable exception, "new tank system" means "a tank system or component that will be used for the storage or treatment of hazardous waste and for which installation has commenced after [January 16, 1993]," with other exceptions that do not apply here.
 - iii. At the time of the Atglen Inspection, upon request by the Inspectors, Respondent could not provide a written assessment reviewed and certified by a qualified professional engineer for Tanks Nos. 4 and 6 at the Atglen Facility. Tanks Nos. 4 and 6 were installed in 1993.
 - iv. From calendar year 2021 to the time of the Atglen Inspection, Respondent failed to comply with 40 C.F.R. § 262.17(a)(2), which 25 Pa. Code § 262a.10 incorporates by reference, by failing to obtain a written assessment reviewed and certified by a qualified professional engineer attesting Tanks Nos. 4 and 6 at the Atglen Facility have sufficient structural integrity and are acceptable for the storing and treating of hazardous waste.

c. Failure to Inspect Hazardous Waste Tanks Daily

- i. Pursuant to 40 C.F.R. § 262.17(a)(2), which 25 Pa. Code § 262a.10 incorporates by reference, an LQG “may accumulate hazardous waste on site...for no more than 90 days” in tanks, provided that the LQG complies “with the applicable requirements of Subpart J” of 40 C.F.R. Part 265, with exclusions that do not apply here.
- ii. Pursuant to 40 C.F.R. § 265.195(a), the owner or operator of a hazardous waste tank system “must inspect, where present, at least once each operating day, data gathered from monitoring and leak detection equipment (e.g., pressure or temperature gauges, monitoring wells) to ensure that the tank system is being operated according to its design.” Pursuant to 40 C.F.R. § 265.195(g), the “owner or operator must document in the operating record of the facility an inspection of those items in [Section 265.195(a)].”
- iii. At the time of the Atglen Inspection, upon request by the Inspectors, Respondent could not provide documentation of daily inspections of the hazardous waste tanks at the Atglen Facility for the prior three years. Instead, Respondent’s representative stated that such inspections were done weekly and included as part of the weekly logs for Building 55. However, the Inspectors observed that Building 55’s logs did not mention hazardous waste tanks.
- iv. From calendar year 2021 to June 2023, Respondent failed to comply with 40 C.F.R. § 262.17(a)(2), which 25 Pa. Code § 262a.10 incorporates by reference, by failing to inspect, at least once each operating day, data gathered from monitoring and leak detection equipment of the hazardous waste tanks at the Atglen Facility.

d. Failure to Mark or Label with the Words, “Hazardous Waste”

- i. Pursuant to 40 C.F.R. § 262.17(a)(5)(i)(A), which 25 Pa. Code § 262a.10 incorporates by reference, an LQG “may accumulate hazardous waste on site...for no more than 90 days” in containers, provided that the LQG “mark[s] or label[s] its containers with the...words, ‘Hazardous Waste.’”
- ii. At the time of the Atglen Inspection, the Inspectors observed four 4-inch diameter tubes, one 2-inch diameter tube, and a plexiglass double vac box lying on the ground in the CAA of Building 55. Initially, two of the tubes shared a label stating they were D003 hazardous waste “Tubing to be processed 5 pcs 2 vacumm [sic] boxes,” dated April 18, 2023. The label

came off of one tube during the Atglen Inspection. The other items were unlabeled. Respondent's representatives stated that they considered the items to be D003 and D008 hazardous waste, and that the one label was intended to apply to all of the items.

- iii. At the time of the Atglen Inspection, Respondent failed to comply with 40 C.F.R. § 262.17(a)(5)(i)(A), which 25 Pa. Code § 262a.10 incorporates by reference, by failing to mark or label containers of hazardous waste with the words, "Hazardous Waste."

e. Failure to Visibly and Clearly Mark or Label the Accumulation Date

- i. Pursuant to 40 C.F.R. § 262.17(a)(5)(i)(C), which 25 Pa. Code § 262a.10 incorporates by reference, an LQG "may accumulate hazardous waste on site...for no more than 90 days" in containers, provided that the LQG clearly and visibly "mark[s] or label[s] its containers with the...date upon which each period of accumulation begins."
- ii. At the time of the Atglen Inspection, the Inspectors observed a fairly full and undated drum labeled as D008 hazardous waste "Filter Socks Primary" and "Explosive 1.1A." At the time of the Atglen Inspection, the Inspectors also observed four 4-inch diameter tubes, one 2-inch diameter tube, and a plexiglass double vac box lying on the ground in the Central Accumulation Area ("CAA") of Building 55. Initially, two of the tubes shared a label stating they were D003 hazardous waste "Tubing to be processed 5 pcs 2 vacumm [sic] boxes," dated April 18, 2023. The label came off of one tube during the Atglen Inspection. The other items were undated. Respondent's representatives stated that they considered the items to be D003 and D008 hazardous waste, and that the one label was intended to apply to all of the items.
- iii. At the time of the Atglen Inspection, Respondent failed to comply with 40 C.F.R. § 262.17(a)(5)(i)(C), which 25 Pa. Code § 262a.10 incorporates by reference, by failing to visibly and clearly mark the date upon which the period of accumulation began for each container of hazardous waste.

f. Failure to Have a Complete Contingency Plan

- i. Pursuant to 40 C.F.R. § 262.17(a)(6), which 25 Pa. Code § 262a.10 incorporates by reference, an LQG "may accumulate hazardous waste on site for no more than 90 days" provided that the LQG "complies with the standards in [S]ubpart M of [40 C.F.R. Part 262], Preparedness, Prevention and Emergency Procedures for Large Quantity Generators."

- ii. Pursuant to 40 C.F.R. § 262.260(a), an LQG must have a contingency plan for the facility.
- iii. Pursuant to 40 C.F.R. § 262.261, a hazardous waste facility's contingency plan must contain the following:
 - 1. A description of the "actions facility personnel must take to comply with [40 C.F.R.] §§ 262.260 and 262.265 in response to fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water at the facility," 40 C.F.R. § 262.261(a);
 - 2. An up-to-date list of "names and emergency telephone numbers of all persons qualified to act as emergency coordinator," with the primary emergency coordinator named when there is more than one person followed by all other persons "in the order in which they will assume responsibility as alternates," 40 C.F.R. § 262.261(d);
 - 3. An up-to-date "list of all emergency equipment at the facility" and "the location and a physical description of each item on the list, and a brief outline of its capabilities," 40 C.F.R. § 262.261(e); and
 - 4. An "evacuation plan for generator personnel...[that] describe[s] signal(s) to be used to begin evacuation, evacuation routes, and alternate evacuation routes," 40 C.F.R. § 262.261(f).
- iv. At the time of the Atglen Inspection, the Inspectors reviewed the Atglen Facility's contingency plan, dated November 2022, and found that the fire-related procedures only related to the transport process. The Inspectors also found that the plan did not include the following:
 - 1. Procedures to respond to explosions;
 - 2. The employee that is the primary emergency coordinator;
 - 3. The specific location and a brief outline of the capabilities of all emergency equipment in its list of emergency equipment; and
 - 4. A map or other means of showing or describing evacuation routes and alternate evacuation routes.

- v. From November 2022 to the time of the Atglen Inspection, Respondent failed to comply with 40 C.F.R. § 262.17(a)(6), which 25 Pa. Code § 262a.10 incorporates by reference, by failing to have a contingency plan at the Atglen Facility that met all the requirements of 40 C.F.R. § 262.261.
- g. Failure to Submit Contingency Plan to All Local Emergency Responders
 - i. Pursuant to 40 C.F.R. § 262.17(a)(6), which 25 Pa. Code § 262a.10 incorporates by reference, an LQG “may accumulate hazardous waste on site...for no more than 90 days,” provided that the LQG “complies with the standards in [S]ubpart M of [40 C.F.R. Part 262], Preparedness, Prevention and Emergency Procedures for Large Quantity Generators.”
 - ii. Pursuant to 40 C.F.R. § 262.262(a), an LQG “must submit a copy of the contingency plan and all revisions to all local emergency responders (i.e., police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services).”
 - iii. At the time of the Atglen Inspection, upon request by the Inspectors, Respondent could not provide evidence that a copy of the Atglen Facility’s contingency plan and all revisions were submitted to all local emergency responders.
 - iv. From calendar year 2021 to the time of the Atglen Inspection, Respondent failed to comply with 40 C.F.R. § 262.17(a)(6), which 25 Pa. Code § 262a.10 incorporates by reference, by failing to submit a copy of the Atglen Facility’s contingency plan and all revisions to all local emergency responders.
- h. Failure to Provide Annual Review of Hazardous Waste Training
 - i. Pursuant to 40 C.F.R. § 262.17(a)(7)(ii) and (iii), which 25 Pa. Code § 262a.10 incorporates by reference, an LQG “may accumulate hazardous waste on site...for no more than 90 days,” provided that...facility personnel (1) “successfully complete the program required [by 40 C.F.R. § 262.17(a)(7)(i)] within six months after the date of their employment or assignment to the facility, or to a new position at the facility, whichever is later” and (2) “take part in an annual review of the initial training.”
 - ii. At the time of the Atglen Inspection, Respondent was unable to provide a list of employees required to receive hazardous waste training. However, Respondent’s representatives identified four employees that require

hazardous waste training pursuant to 40 C.F.R. § 262.17(a)(7)(i). Upon review of Respondent's hazardous waste training records, the Inspectors identified one further employee requiring training. Two of the identified employees had been hired within 90 days of the Atglen Inspection. For the remaining three employees identified, annual refresher training was missing for 2021 and 2022.

- iii. In calendar years 2021 and 2022, Respondent failed to comply with 40 C.F.R. § 262.17(a)(7)(iii), which 25 Pa. Code § 262a.10 incorporates by reference, by failing to provide annual review of the training program required by 40 C.F.R. § 262.17(a)(7)(i).

- 33. From calendar year 2021 to June 2023, Respondent violated 40 C.F.R. § 270.1(b), which 25 Pa. Code § 270a.1 incorporates by reference, by operating the Atglen Facility for the treatment, storage, or disposal of hazardous waste without first obtaining a permit or interim status.
- 34. In failing to comply with 40 C.F.R. § 270.1(b), which 25 Pa. Code § 270a.1 incorporates by reference, Respondent is subject to the assessment of penalties under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

Count 2

Failure to Make Accurate Hazardous Waste Determinations

- 35. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
- 36. Pursuant to 40 C.F.R. § 262.11, which 25 Pa. Code § 262a.10 incorporates by reference, a "person who generates a solid waste, as defined in 40 C.F.R. § 261.2, must make an accurate determination as to whether that waste is a hazardous waste" in accordance with methods specified in 40 C.F.R. § 262.11. Specifically, the generator must (a) make the determination "at the point of generation, before any dilution, mixing, or other alteration of the waste occurs, and at any time in the course of its management that it has, or may have, changed its properties as a result of exposure to the environment or other factors that may change the properties of the waste"; (b) determine if the waste is excluded from regulation under 40 C.F.R. § 261.4; (c) if the waste not excluded, "use knowledge of the waste to determine whether the waste meets any of the listing descriptions under Subpart D of 40 C.F.R. Part 261"; (d) "determine whether the waste exhibits one or more hazardous characteristics as identified in Subpart C of 40 C.F.R. Part 261" by either applying "knowledge of the hazard characteristic of the waste in light of the materials or the processes used to generate the waste" or by testing the waste with specified methods; and, (e) if the waste is determined to be hazardous, refer

to 40 C.F.R. Parts 261, 264-266, 268, and 273 for other possible exclusions or restrictions pertaining to management of the specific waste.

37. At the time of the Bristol Inspection, in the Electronic Thermal Battery Initiators ("ETBI") area, the Inspectors observed a 5-gallon bucket, open and labeled as non-hazardous waste. The bucket was approximately one-quarter full of small aluminum cups (some of which appeared to contain a semi-liquid residue), syringes, and swabs used to apply HumiSeal® as a coating. HumiSeal® is flammable and was stored in the flammables cabinet in the ETBI area. However, no D001 hazardous waste label was observed on the bucket.
38. At the time of the Bristol Inspection, Respondent violated 40 C.F.R. § 262.11, which 25 Pa. Code § 262a.10 incorporates by reference, by failing to determine if the solid waste (i.e., small aluminum cups, syringes, and swabs in the 5-gallon bucket) it generated was hazardous waste.
39. In failing to comply with 40 C.F.R. § 262.11, which 25 Pa. Code § 262a.10 incorporates by reference, Respondent is subject to the assessment of penalties under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

Count 3

Failure to Keep Containers of Hazardous Waste Closed

40. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
41. Pursuant to 40 C.F.R. § 264.173(a), which 25 Pa. Code § 264a.1 incorporates by reference, "[a] container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste."
42. At the time of the Atglen Inspection, the Inspectors observed the following open containers of hazardous waste:
 - a. In Building 20, a red 5-gallon pail about one-third full of used alcohol wipes labeled as D008 hazardous waste "Primary Paper Waste," with a shower cap-style plastic cover that was partially open;
 - b. In Building 20, a vac box filled up to about a quarter with liquid, with an open connection in the lid, attached to the inactive "PA506" machine, and labeled as D003 and D008 hazardous waste "Primary Wet Waste";
 - c. In Building 24 below a sink drain with no plug, a 5-gallon pail with about an inch of liquid labeled as D008 hazardous waste "Primary Waste Water" and

connected to the sink drain with a hose going through a slit (that was larger than the diameter of the hose, creating gaps on either side) in the flexible plastic cover of the pail;

- d. In Building 24 sitting next to a sink, another 5-gallon pail with about an inch of liquid labeled D008 hazardous waste "Waste Woder [sic]" and with a slit that had no hose connection;
 - e. In the "Explosives 25" room of Building 24, a 5-gallon pail with two inches of liquid labeled as D008 hazardous waste "Primary Wet Waste" and connected to a sink with a hose going through a slit in the flexible plastic cover of the pail;
 - f. In the "East" room of Building 24, another 5-gallon pail with two inches of liquid labeled as D008 hazardous waste "Primary Wet Waste" and connected to a sink with a hose going through a slit in the flexible plastic cover of the pail;
 - g. On a rack in the "X-Ray Room" of Building 65, a small, cardboard tray labeled as hazardous waste "M69 Elect. Det." and holding one rejected detonator;
 - h. In the tank area of Building 55 on the primary explosive side, one drum with about five inches of liquid labeled as D008 hazardous waste "Primary Waste" and "Filter Bags," dated April 5, 2023, with three filter socks suspended inside; and
 - i. In the tank area of Building 55 on the secondary explosive side, another drum with about two inches of liquid labeled as D003 hazardous waste "Secondary Wastewater," dated April 5, 2023, with filter socks suspended inside.
43. At the time of the Inspection, Respondent violated 40 C.F.R. § 264.173(a), which 25 Pa. Code § 264a.1 incorporates by reference, by failing to keep containers of hazardous waste closed during storage, except when it is necessary to add or remove waste.
44. In failing to comply with 40 C.F.R. § 264.173(a), which 25 Pa. Code § 264a.1 incorporates by reference, Respondent is subject to the assessment of penalties under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

Count 4

Failure to Provide Annual Review of Hazardous Waste Training

45. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.

46. Pursuant to 40 C.F.R. § 264.16(a)(1), which 25 Pa. Code § 264a.1 incorporates by reference, “[f]acility personnel must successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility’s compliance with the requirements of [40 C.F.R. Part 264].” Pursuant to 40 C.F.R. § 264.16(c), which 25 Pa. Code § 264a.1 incorporates by reference, “[f]acility personnel must take part in an annual review of [this] initial training.”
47. At the time of the Atglen Inspection, upon request by the Inspectors, Respondent could not provide a list of employees required to receive hazardous waste training. However, Respondent’s representatives identified four employees that require hazardous waste training pursuant to 40 C.F.R. § 264.16. Upon review of Respondent’s hazardous waste training records, the Inspectors identified one further employee requiring training. Two of the identified employees had been hired within 90 days of the Atglen Inspection. For the remaining three employees identified, annual refresher training was missing for 2021 and 2022.
48. In calendar years 2021 and 2022, Respondent failed to comply with 40 C.F.R. § 264.16(c), which 25 Pa. Code § 264a.1 incorporates by reference, by failing to provide annual review of a program of classroom instruction or on-the-job training that teaches the Atglen Facility personnel to perform their duties in a way that ensures the Atglen Facility’s compliance with the requirements of 40 C.F.R. Part 264.
49. In failing to comply with 40 C.F.R. § 264.16(c), which 25 Pa. Code § 264a.1 incorporates by reference, Respondent is subject to the assessment of penalties under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

Count 5
Failure to Have a Complete Contingency Plan

50. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
51. Pursuant to 40 C.F.R. § 264.51(a), which 25 Pa. Code § 264a.1 incorporates by reference, the owner or operator of a hazardous waste facility must have a contingency plan for the facility.
52. Pursuant to 40 C.F.R. § 264.52, which 25 Pa. Code § 264a.1 incorporates by reference, a hazardous waste facility’s contingency plan must contain the following:
 - a. A description of the “actions facility personnel must take to comply with [40 C.F.R.] §§ 264.51 and 264.56 in response to fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water at the facility,” 40 C.F.R. § 264.52(a);

- b. An up-to-date list of “names, addresses, and phone numbers...of all persons qualified to act as emergency coordinator,” with the primary emergency coordinator named when there is more than one person followed by all other persons “in the order in which they will assume responsibility as alternates,” 40 C.F.R. § 264.52(d);
 - c. An up-to-date “list of all emergency equipment at the facility” and “the location and a physical description of each item on the list, and a brief outline of its capabilities,” 40 C.F.R. § 264.52(e); and
 - d. An “evacuation plan for facility personnel...[that] describe[s] signal(s) to be used to begin evacuation, evacuation routes, and alternate evacuation routes,” 40 C.F.R. § 264.52(f).
- 53. At the time of the Atglen Inspection, the Inspectors reviewed the Atglen Facility’s contingency plan, dated November 2022, and found that the fire-related procedures only related to the transport process. The Inspectors also found that the plan did not include the following:
 - a. Procedures to prevent explosions;
 - b. The employee that is the primary emergency coordinator;
 - c. The specific location and a brief outline of the capabilities of all emergency equipment in its list of emergency equipment; and
 - d. A map or other means of showing or describing evacuation routes and alternate evacuation routes.
- 54. From November 2022 to the time of the Atglen Inspection, Respondent failed to comply with 40 C.F.R. § 264.52, which 25 Pa. Code § 264a.1 incorporates by reference, by failing to maintain a contingency plan at the Atglen Facility that met all the requirements of 40 C.F.R. § 264.52.
- 55. In failing to comply with 40 C.F.R. § 264.52, which 25 Pa. Code § 264a.1 incorporates by reference, Respondent is subject to the assessment of penalties under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

Count 6

Failure to Submit Contingency Plan to All Local Authorities

- 56. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.

57. Pursuant to 40 C.F.R. § 264.53, which 25 Pa. Code § 264a.1 incorporates by reference, a copy of the facility's contingency plan and all revisions to the plan must be "[s]ubmitted to all local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services."
58. At the time of the Atglen Inspection, upon request by the Inspectors, Respondent could not provide evidence that a copy of the Atglen Facility's contingency plan and all revisions to the plan were submitted to all local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services.
59. From calendar year 2021 to the time of the Atglen Inspection, Respondent failed to comply with 40 C.F.R. § 264.53, which 25 Pa. Code § 264a.1 incorporates by reference, by failing to submit a copy of the Atglen Facility's contingency plan and all revisions to the plan to all local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services.
60. In failing to comply with 40 C.F.R. § 264.53, which 25 Pa. Code § 264a.1 incorporates by reference, Respondent is subject to the assessment of penalties under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

Count 7

Failure to Obtain Written Assessments By a Qualified Professional Engineer

61. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
62. Pursuant to 40 C.F.R § 264.192, which 25 Pa. Code § 264a.1 incorporates by reference, the owner or operator of new tank systems "must obtain and submit...a written assessment, reviewed and certified by a qualified Professional Engineer...attesting that the tank system has sufficient structural integrity and is acceptable for the storing and treating of hazardous waste." Pursuant to 40 C.F.R. § 260.10, which 25 Pa. Code § 2601.10 incorporates by reference with an applicable exception, "new tank system" means "a tank system or component that will be used for the storage or treatment of hazardous waste and for which installation has commenced after [January 16, 1993]," with other exceptions that do not apply here.
63. At the time of the Atglen Inspection, upon request by the Inspectors, Respondent could not provide written assessment reviewed and certified by a qualified professional engineer for Tanks Nos. 4 and 6 at the Atglen Facility. Tanks Nos. 4 and 6 were installed in 1993.

- 64. From calendar year 2021 to the time of the Atglen Inspection, Respondent failed to comply with 40 C.F.R § 264.192, which 25 Pa. Code § 264a.1 incorporates by reference, by failing to obtain a written assessment reviewed and certified by a qualified professional engineer attesting Tanks Nos. 4 and 6 at the Atglen Facility have sufficient structural integrity and are acceptable for the storing and treating of hazardous waste.
- 65. In failing to comply with 40 C.F.R § 264.192, which 25 Pa. Code § 264a.1 incorporates by reference, Respondent is subject to the assessment of penalties under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

Count 8

Failure to Inspect Hazardous Waste Tanks Daily

- 66. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
- 67. Pursuant to 40 C.F.R. § 264.195(b), which 25 Pa. Code § 264a.1 incorporates by reference, the owner or operator of a hazardous waste tank system “must inspect at least once each operating day data gathered from monitoring and leak detection equipment (e.g., pressure or temperature gauges, monitoring wells) to ensure that the tank system is being operated according to its design.” Pursuant to 40 C.F.R. § 264.195(h), which 25 Pa. Code § 264a.1 incorporates by reference, the “owner or operator must document in the operating record of the facility an inspection of those items in [Section 264.195(b)].”
- 68. At the time of the Atglen Inspection, upon request by the Inspectors, Respondent could not provide documentation of daily inspections of the hazardous waste tanks at the Atglen Facility for the prior three years. Instead, Respondent’s representative stated that such inspections were done weekly and included as part of the weekly logs for Building 55. However, the Inspectors observed that Building 55’s logs did not mention hazardous waste tanks.
- 69. From calendar year 2021 to June 2023, Respondent failed to comply with 40 C.F.R. § 264.195(b) and (h), which 25 Pa. Code § 264a.1 incorporates by reference, by failing to inspect at least once each operating day data gathered from monitoring and leak detection equipment of the hazardous waste tanks at the Atglen Facility.
- 70. In failing to comply with 40 C.F.R. § 264.195(b) and (h), which 25 Pa. Code § 264a.1 incorporates by reference, Respondent is subject to the assessment of penalties under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

Count 9
Failure to Label Universal Waste Container

71. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
72. Pursuant to 40 C.F.R § 273.14, which 25 Pa. Code 266b.1 incorporates by reference, a “small quantity handler of universal waste must label or mark the universal waste to identify the type of universal waste.” Specifically, pursuant to 40 C.F.R § 273.14(e), which 25 Pa. Code 266b.1 incorporates by reference, “[e]ach lamp or a container or package in which such lamps are contained must be labeled or marked clearly with one of the following phrases: ‘Universal Waste—Lamp(s),’ or ‘Waste Lamp(s),’ or ‘Used Lamp(s).’”
73. At the time of the Atglen Inspection, in the CAA of Building 55, the Inspectors observed a 25-gallon drum of universal waste lamps labeled only “Mercury Vapor Bulbs.”
74. At the time of the Atglen Inspection, Respondent violated 40 C.F.R § 273.14(e), which 25 Pa. Code 266b.1 incorporates by reference, by failing to label or mark clearly a container of universal waste with one of the specified phrases from 40 C.F.R § 273.14(e).
75. In failing to comply with 40 C.F.R § 273.14(e), which 25 Pa. Code 266b.1 incorporates by reference, Respondent is subject to the assessment of penalties under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

Count 10
Accumulation of Universal Waste for Longer Than One Year

76. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
77. Pursuant to 40 C.F.R § 273.15(a), which 25 Pa Code 266b.1 incorporates by reference, a “small quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated, or received from another handler,” with exceptions that do not apply here.
78. At the time of the Atglen Inspection, in the CAA of Building 55, the Inspectors observed a 25-gallon container of universal waste lamps dated April 20, 2022.
79. The 25-gallon container of universal waste lamps dated April 20, 2022 was shipped off-site on June 19, 2023.

80. From April 20, 2023 to June 19, 2023, Respondent violated 40 C.F.R § 273.15(a), which 25 Pa Code 266b.1 incorporates by reference, by accumulating universal waste for longer than one year from the date the universal waste was generated.
81. In failing to comply with 40 C.F.R § 273.15(a), which 25 Pa Code 266b.1 incorporates by reference, Respondent is subject to the assessment of penalties under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

CIVIL PENALTY

82. In settlement of the EPA's claims for civil penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of ONE HUNDRED TWENTY-SIX THOUSAND, ONE HUNDRED FIFTY-TWO dollars (\$126,152.00) ("Assessed Penalty"), which Respondent shall be liable to pay in accordance with the terms set forth below.
83. In determining the amount of the Assessed Penalty, the EPA has taken into account the factors specified in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3).
84. Respondent agrees to pay the Assessed Penalty within thirty (30) days of the Effective Date of this Consent Agreement and Final Order.
85. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using one of the electronic payment options provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions relating to electronic payment options, see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>. Respondent acknowledges that the EPA has provided adequate notification that, prior to the Effective Date, in accordance with Executive Order 14247: Modernizing Payments To and From America's Bank Account, the EPA ceased accepting paper checks as a form of payment of civil penalties and the EPA only accepts specific electronic methods of payments as provided on the above website.
86. When making a payment, Respondent shall:
 - a. Identify every payment with Respondent's name and the docket number of this Consent Agreement, RCRA-03-2026-0085,
 - b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve Proof of Payment simultaneously by email to the following person(s):

Promy Tabassum
Assistant Regional Counsel
tabassum.promy@epa.gov

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

and

U.S. EPA Region 3 Regional Hearing Clerk
R3_Hearing_Clerk@epa.gov.

“Proof of Payment” means, as applicable, 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 the EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent’s name.

87. Interest, Charges, and Penalties on Late Payments. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay the full amount of the Assessed Penalty per this Consent Agreement, the EPA is authorized to recover, in addition to the amount of the unpaid Assessed Penalty, the following amounts.
- a. Interest. Interest begins to accrue from the Effective Date of this Consent Agreement and Final Order. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. To protect the interests of the United States, the rate of interest is set at the IRS large corporate underpayment rate, any lower rate would fail to provide Respondent adequate incentive for timely payment.
 - b. Handling Charges. Respondent will be assessed monthly a charge to cover the EPA’s costs of processing and handling overdue debts. If Respondent fails to pay the Assessed Penalty in accordance with this Consent Agreement, the EPA will assess a charge to cover the costs of handling any unpaid amounts for the first thirty (30) day period after the Effective Date. Additional handling charges will be assessed every thirty (30) days, or any portion thereof, until the unpaid portion of the Assessed Penalty as well as any accrued interest, penalties, and other charges are paid in full.
 - c. Late Payment Penalty. A late payment penalty of six percent (6%) per annum, will be assessed monthly on all debts, including any unpaid portion of the Assessed Penalty, interest, penalties, and other charges, that remain delinquent more than ninety (90) days. Any such amounts will accrue from the Effective Date.

88. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Consent Agreement, the EPA may take additional actions. Such actions the EPA may take include, but are not limited to, the following.
- a. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14.
 - b. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.
 - c. Suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with the EPA or engaging in programs the EPA sponsors or funds, per 40 C.F.R. § 13.17.
 - d. Refer this matter to the United States Department of Justice for litigation and collection, per 40 C.F.R. § 13.33.
89. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.
90. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Consent Agreement and Final Order shall not be deductible for purposes of federal taxes.
91. The Parties consent to service of the Final Order by email at the following valid email addresses: tabassum.promy@epa.gov (for Complainant), and BoudreauL@ballardspahr.com (for Respondent).
92. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, the EPA is required to send to the Internal Revenue Service ("IRS") annually, a completed IRS Form 1098-F ("Fines, Penalties, and Other Amounts") with respect to any court order or settlement agreement (including administrative settlements), that require a payor to pay an aggregate amount that the EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor's violation of any law or the investigation or inquiry into the payor's potential violation of any law, including amounts paid for "restitution or remediation of property" or to come "into compliance with a law." The EPA is further

required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number ("TIN"), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. In order to provide the EPA with sufficient information to enable it to fulfill these obligations, the EPA herein requires, and Respondent herein agrees, that:

- a. Respondent shall complete an IRS Form W-9 ("Request for Taxpayer Identification Number and Certification"), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
- b. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent's correct TIN or that Respondent has applied and is waiting for issuance of a TIN;
- c. Respondent shall email its completed Form W-9 to the EPA's Cincinnati Finance Center at henderson.jessica@epa.gov, within 30 days after the Final Order ratifying this Consent Agreement is filed, and the EPA recommends encrypting IRS Form W-9 email correspondence; and
- d. In the event that Respondent has certified in its completed IRS Form W-9 that it has applied for a TIN and that TIN has not been issued to Respondent within 30 days after the Effective Date, then Respondent, using the same email address identified in the preceding sub-paragraph, shall further:
 - i. Notify the EPA's Cincinnati Finance Center of this fact, via email, within 30 days after the 30 days after the Effective Date of the Final Order per Paragraph 99; and
 - ii. Provide the EPA's Cincinnati Finance Center with Respondent's TIN, via email, within five (5) days of Respondent's issuance and receipt of the TIN.

GENERAL SETTLEMENT CONDITIONS

93. By signing this Consent Agreement, Respondent acknowledges that this Consent Agreement and Final Order will be available to the public and represents that, to the best of Respondent's knowledge and belief, this Consent Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondent.
94. Respondent certifies that any information or representation it has supplied or made to the EPA concerning this matter was, at the time of submission true, accurate, and

complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. The EPA shall have the right to institute further actions to recover appropriate relief if the EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this Consent Agreement and Final Order, including information about Respondent's ability to pay a penalty, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that the EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors, and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

CERTIFICATION OF COMPLIANCE

95. Respondent certifies to the EPA, upon personal investigation and to the best of its knowledge and belief, that it currently is in compliance with regard to the violations alleged in this Consent Agreement.

OTHER APPLICABLE LAWS

96. Nothing in this Consent Agreement and Final Order shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state, or local permit. This Consent Agreement and Final Order does not constitute a waiver, suspension, or modification of the requirements of the RCRA Subtitle C, or any regulations promulgated thereunder.

RESERVATION OF RIGHTS

97. This Consent Agreement and Final Order resolves only the EPA's claims for civil penalties for the specific violations alleged against Respondent in this Consent Agreement and Final Order. The EPA reserves the right to commence action against any person, including Respondent, in response to any condition which the EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. This settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice, 40 C.F.R. § 22.18(c). The EPA reserves any rights and remedies available to it under RCRA Subtitle C, the regulations promulgated thereunder, and any other federal law or regulation to enforce the terms of this Consent Agreement and Final Order after its Effective Date. Respondent reserves whatever rights or defenses it may have to defend itself in any such action.

EXECUTION /PARTIES BOUND

98. This Consent Agreement and Final Order shall apply to and be binding upon the EPA, Respondent, and the officers, directors, employees, contractors, successors, agents, and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and Final Order.

EFFECTIVE DATE

99. The effective date of this Consent Agreement and Final Order ("Effective Date") is the date on which the Final Order, signed by the Regional Administrator of the EPA, Region 3, or the Regional Administrator's designee, the Regional Judicial Officer, is filed along with the Consent Agreement with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

ENTIRE AGREEMENT

100. This Consent Agreement and Final Order constitute the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed in this Consent Agreement and Final Order.

In the Matter of: Action Manufacturing Co.

EPA Docket No. RCRA-03-2026-0085

For Respondent: Action Manufacturing Co.

Date: 5 JUNE 2026

By:



Sean Gibbs, President and CEO
Action Manufacturing Co.

For the Complainant:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement and Compliance Assurance Division of the United States Environmental Protection Agency, Region 3, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or the Regional Administrator's designee, the Regional Judicial Officer, issue the attached Final Order.

By: _____
[*Digital Signature and Date*]
Acting Director
Enforcement and Compliance Assurance Division
U.S. EPA – Region 3
Complainant

Attorney for Complainant:

By: _____
[*Digital Signature and Date*]
Promy Tabassum
Assistant Regional Counsel
U.S. EPA – Region 3

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 3
Philadelphia, Pennsylvania 19103

FILED

Jun 15, 2026

8:45 am

U.S. EPA REGION 3
HEARING CLERK

In the Matter of: :
:
Action Manufacturing Co. : U.S. EPA Docket No. RCRA-03-2026-0085
190 Rittenhouse Cir. :
Bristol, PA 19007 : Proceeding under Section 3008 of the
: Resource Conservation and Recovery Act, 42
Respondent. : U.S.C. § 6928
:
Atglen Facility :
500 Bailey Crossroads Rd. :
Atglen, PA 19310 :
:
and :
:
Bristol Facility :
190 Rittenhouse Cir. :
Bristol, PA 19007 :
:
Facilities. :

FINAL ORDER

Pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22 (with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3)), the Consent Agreement resolving this matter is hereby ratified and incorporated by reference into this Final Order.

Respondent is hereby ORDERED to comply with all of the terms of the Consent Agreement.

The effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

By: _____
[Digital Signature and Date]
Regional Judicial and Presiding Officer
U.S. EPA – Region 3

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 3
Philadelphia, Pennsylvania 19103

In the Matter of:	:	
	:	
Action Manufacturing Co.	:	U.S. EPA Docket No. RCRA-03-2026-0085
190 Rittenhouse Cir.	:	
Bristol, PA 19007	:	Proceeding under Section 3008 of the
	:	Resource Conservation and Recovery Act, 42
Respondent.	:	U.S.C. § 6928
	:	
Atglen Facility	:	
500 Bailey Crossroads Rd.	:	
Atglen, PA 19310	:	
	:	
and	:	
	:	
Bristol Facility	:	
190 Rittenhouse Cir.	:	
Bristol, PA 19007	:	
	:	
Facilities.	:	

CERTIFICATE OF SERVICE

I certify that the foregoing ***Consent Agreement and Final Order*** was filed with the EPA Region 3 Regional Hearing Clerk on the date that has been electronically stamped on the ***Consent Agreement and Final Order***. I further certify that on the date set forth below, I caused to be served a true and correct copy of the foregoing to each of the following persons, in the manner specified below, at the following addresses:

Copies served via email to:

Sean Gibbs, President & CEO
Action Manufacturing Co.
190 Rittenhouse Cir.
Bristol, PA 19007
sgibbs@action-mfg.com

Lorene L. Boudreau, Esq.
Ballard Spahr LLP
1735 Market St., 51st Floor
Philadelphia, PA 19103
BoudreauL@ballardspahr.com

In the Matter of: Action Manufacturing Co.

EPA Docket No. RCRA-03-2026-0085

Promy Tabassum, Esq.
Assistant Regional Counsel
U.S. EPA, Region 3
tabassum.promy@epa.gov

Rebecca Serfass
Sr. Inspector/Enforcement Officer
U.S. EPA, Region 3
serfass.rebecca@epa.gov

By: _____
[*Digital Signature and Date*]
Regional Hearing Clerk
U.S. EPA – Region 3