

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 7

901 NORTH 5th STREET

KANSAS CITY, KANSAS 66101

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 7
2013 APR 29 PM 12:38

IN THE MATTER OF:)
)
Northwest Iowa Community College)
603 West Park Street)
Sheldon, Iowa 51201)
)
RCRA I.D. No. IAD078015732)
)
Respondent)
)
Proceeding under Section 3008(a) and (g) of)
the Resource Conservation and Recovery)
Act as amended, 42 U.S.C. § 6928(a) and (g))
)

**CONSENT AGREEMENT
AND FINAL ORDER**

Docket No. RCRA-07-2012-0032

I. PRELIMINARY STATEMENT

The United States Environmental Protection Agency (EPA), Region 7 (Complainant) and Northwest Iowa Community College (Respondent) have agreed to a settlement of this action before the filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (Consolidated Rules of Practice), 40 Code of Federal Regulations (C.F.R.) §§ 22.13(b) and 22.18(b)(2). This Consent Agreement and Final Order (CAFO) is a complete and final settlement of all civil and administrative claims and causes of action for the violations set forth in this CAFO.

II. ALLEGATIONS

Jurisdiction

1. This administrative action is being conducted pursuant to Sections 3008(a) and (g) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA or the Act), and the Hazardous and Solid Waste Amendments of 1984 (HSWA), 42 United States Code (U.S.C.) § 6928(a) and (g), and in accordance with the Consolidated Rules of Practice.

2. This CAFO serves as notice that EPA has reason to believe that Respondent violated Section 3005 of RCRA, 42 U.S.C. § 6925, and the implementing regulations at 40 C.F.R. Parts 262, 265, 273, and 279).

Parties

3. The Complainant is the Chief of the RCRA Waste Enforcement and Materials Management Branch in the Air and Waste Management Division of EPA, Region 7.

4. The Respondent is Northwest Iowa Community College (Respondent), a non-profit organization in the state of Iowa.

Statutory and Regulatory Framework

5. When EPA determines that any person has violated or is in violation of any RCRA requirement, EPA may issue an order assessing a civil penalty for any past or current violation and/or require immediate compliance or compliance within a specified time period pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928.

6. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), authorizes a civil penalty of not more than \$25,000 per day for violations of Subchapter III of RCRA (Hazardous Waste Management). This figure has been adjusted upward for inflation pursuant to the Civil Monetary Penalties Inflation Adjustment Rule, 40 C.F.R. Part 19, so that penalties of up to \$32,500 per day are authorized for violations of Subchapter III of RCRA that occur between March 15, 2004, and January 12, 2009, and penalties of up to \$37,500 per day are authorized for violations that occur after January 12, 2009. Based upon the facts alleged in this CAFO and upon those factors which Complainant must consider pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), as discussed in the RCRA Civil Penalty Policy issued by EPA in June 2003, the Complainant and Respondent agree to the payment of a civil penalty pursuant to Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), for the violations of RCRA alleged in this CAFO.

7. Pursuant to the regulations set forth 40 C.F.R. Part 262, generators of solid waste must perform hazard waste determinations on all solid wastes.

8. Section 3005 of RCRA, 42 U.S.C. § 6925, and the regulations at 40 C.F.R. § 270.1(b), require each person owning or operating a facility for the treatment, storage, or disposal of a hazardous waste identified or listed under Subchapter C of RCRA to have a permit for such activities.

9. The regulations at 40 C.F.R. § 262.34(d), allow a generator to accumulate hazardous waste in containers on-site for one hundred eighty days without a permit or without interim status, provided the conditions listed in 40 C.F.R. §§ 262.34(d)(1)-(5) are met. These conditions include compliance with various hazardous waste regulatory requirements.

10. The regulations at 40 C.F.R. § 279, Subpart C, set forth the standards for used oil generators regarding management and storage of used oil.

11. The regulations at 40 C.F.R. Part 273, set forth the standards for generators of universal waste.

Factual Background

12. Respondent is a “person” as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

13. Respondent, located at 603 West Park Street, Sheldon, Iowa 51201, is a community college, with an academic laboratory onsite. Respondent employs approximately 160 employees and approximately 1,800 students attend the college.

14. Respondent operates as a small quantity generator of hazardous waste. Small quantity generators generate between 100 kilograms (kg) and 1,000 kg of hazardous waste per month.

15. Respondent has been assigned the following EPA ID Number: IAD078015732.

16. On or about September 20-21, 2011, an inspector for EPA conducted an inspection at Respondent’s facility. Respondent was inspected as a small quantity generator of hazardous waste. Small quantity generators generate between 100 kilograms (kg) and 1,000 kg of hazardous waste per month.

17. During the inspection, it was documented that Respondent accumulated hazardous waste with the following hazardous waste codes: D001, D018, D035, D036, and D039 characteristic hazardous wastes as well as F003 and F005 listed hazardous wastes. Following the inspection, it was documented that Respondent also accumulated D002, D005, D008, and D011 characteristic hazardous wastes. Respondent is also a used oil generator and small quantity handler of universal waste (D009 characteristic hazardous waste lamps and waste batteries), accumulating less than 5,000 kilograms of universal waste at any time.

18. The regulations for determining whether a waste is a solid and/or hazardous waste are set forth at 40 C.F.R. Part 261. Each of the wastes listed in Paragraph 17 are a “solid waste” and, except the used oil, are a “hazardous waste” within the meaning of these regulations.

19. Respondent operates a 180 days or less hazardous waste container accumulation area at the facility.

20. Based on information obtained during the 2011 inspection, Respondent was issued a Notice of Preliminary Findings for, among other things, failure to make a hazardous waste determination on thirteen waste streams, failure to keep satellite accumulation containers closed, failure to comply with used oil requirements, and failure to comply with universal waste requirements.

Violations

Count 1

Failure to Conduct Hazardous Waste Determination

21. The allegations stated in Paragraphs 12 through 20 above are realleged and incorporated as if fully set forth herein.

22. The regulation at 40 C.F.R. 262.11 requires that generators of solid waste, as defined in 40 C.F.R. 261.2, must determine if that waste is a hazardous waste.

23. At the time of the September 2011 inspection, the inspector observed thirteen containers of waste solutions that were generated the previous semester primarily by adjunct instructors during night classes and classes taught for NWIACC at off-site high schools. NWIACC failed to conduct hazardous waste determinations on thirteen waste streams, specifically:

- a. Methyl Alcohol (80%) and Water (20%), D001;
- b. Alpha Naphthol (5%) and Inert (95%), D001;
- c. Glycerol (25%) and Water (35%), D001;
- d. Methanol (25%) and Methyl Esters (15%), D001;
- e. Magnesium Sulfate (5%) and Inert (70%), D005 and D008;
- f. Copper Sulfate (5%), D005 and D008;
- g. Zinc Sulfate (5%), D005 and D008;
- h. Nickel Sulfate (5%), D005 and D008;
- i. Barium Sulfate (5%), D005 and D008;
- j. Lead Acetate (5%), D005 and D008;
- k. Silver Nitrate (100%), D001 and D011;
- l. Acetic Acid (80%) and Methanol (20%), D001 and D002; and
- m. Hydrochloric Acid (20%) and Inert (80%), D001.

24. The waste streams described in Paragraph 23, above, are hazardous waste.

25. Respondent's failure to make a hazardous waste determination on the above referenced thirteen waste streams is a violation of 40 C.F.R. §262.11.

Count 2

Operation of a Hazardous Waste Facility Without a RCRA Permit or Interim Status

26. The allegations stated in Paragraphs 12 through 20 above are realleged and incorporated as if fully set forth herein.

27. Section 3005 of RCRA, 42 U.S.C. § 6925, and 40 C.F.R. § 270.1(b), require each person owning or operating a facility for the treatment, storage, or disposal of hazardous waste identified or listed under Subchapter C of RCRA to have a permit for such activities.

28. The regulations at 40 C.F.R. § 262.34(d), allow a small quantity generator to accumulate hazardous waste in containers on-site for 180 days or less without a permit or without interim status, provided the conditions listed in 40 C.F.R. §§ 262.34(d)(1)-(5) are met. These conditions include compliance with other hazardous waste regulatory requirements.

29. At the time of the September 2011 inspection, Respondent was not complying with various hazardous waste regulatory requirements, described below.

30. Respondent does not have a RCRA Permit or Interim Status to operate as a storage facility and is therefore in violation of Section 3005 of RCRA, 42 U.S.C § 6925.

Failure to Comply with Generator Requirements

31. At the time of the September 2011 inspection, Respondent was not complying with the following regulatory requirements:

Failure to post the emergency coordinator contact information and the location of fire extinguishers and spill control material, and, if present, fire alarm next to the telephone

32. The regulations at 40 C.F.R. 262.34(d)(5)(ii)(A) and (B) require that hazardous waste generators post the name and telephone number of the emergency coordinator and the location of fire extinguishers and spill control material and, if present, a fire alarm, next to the telephone.

33. At the time of the September 2011 inspection, the inspector observed a phone list next to the telephone during the visual inspection of the maintenance area. The phone list did not have any of the required information for a small quantity generator. The inspector was informed that the list next to the phone was not the facility's emergency response information and that the emergency response information was kept in all offices. The inspector reviewed the emergency response information sheet and observed that the fire department's contact information was present, but observed that the emergency coordinator's contact information was not present and that the location of the emergency response equipment was not present on the papers.

34. Respondent's failure to post emergency coordinator contact information and the location of fire extinguishers and spill control material, and, if present, fire alarm next to the telephone is a violation of 40 C.F.R. 262.34(d)(5)(ii).

Failure to keep satellite accumulation containers closed

35. The regulations at 40 C.F.R. 262.34(c)(1)(i) referencing 40 C.F.R. 265.173(a) require that containers holding hazardous waste be closed during storage, except when it is necessary to add or remove waste.

36. At the time of the September 2011 inspection, the inspector observed that the 55-gallon drum of waste paint related materials in the satellite accumulation area was open.

37. Respondent's failure to keep satellite accumulation containers closed is a violation of 40 C.F.R. 262.34(c)(1)(i) referencing 40 C.F.R. 265.173(a).

Count 3

Failure to Comply with Used Oil Requirements

38. The allegations stated in Paragraphs 12 through 20 above are realleged and incorporated as if fully set forth herein.

39. At the time of the September 2011 inspection, the inspector observed the Respondent failed to comply with a used oil requirements, described below.

Failure to label containers with the words "Used Oil"

40. The regulations at 40 C.F.R. 279.22(c)(1) require that containers and aboveground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words "Used Oil."

41. At the time of the September 2011 inspection, the inspector observed that the following used oil containers were not labeled with the words "Used Oil": one, 55-gallon container that was cut in half in one of the heavy equipment machine shops; and four, five-gallon containers in one of the heavy equipment machine shops.

42. Respondent's failure to label containers with the words "Used Oil" is a violation of 40 C.F.R. 279.22(c)(1).

Count 4

Failure to Comply with Universal Waste Requirements

43. The allegations stated in Paragraphs 12 through 20 above are realleged and incorporated as if fully set forth herein.

44. At the time of the September 2011 inspection, the inspector observed the Respondent failed to comply with a number of universal waste requirements, described below.

Failure to maintain used lamps in a closed, structurally sound container

45. The regulations at 40 C.F.R. 273.13(d)(1) require that universal waste containers be structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.

46. At the time of the September 2011 inspection, the inspector observed six containers of universal waste lamps: one container of eight-foot lamps, two containers of four-foot lamps, one container of U-shaped lamps, and one container of HID lamps. The container of eight-foot lamps was labeled as “universal waste” only, and the other containers were unlabeled. None of the containers were closed.

47. Respondent’s failure to maintain used lamps in a closed, structurally sound container is a violation of 40 C.F.R. 273.13(d)(1).

Failure to label containers with the words “Universal Waste – Battery(ies),” or “Waste Battery(ies),” or “Used Battery(ies)”

48. The regulations at 40 C.F.R. 273.14(a) require that universal waste batteries, or container in which the batteries are contained, must be clearly labeled or marked with any one of the following phrases: “Universal Waste – Battery(ies),” or “Waste Battery(ies),” or “Used Battery(ies).”

49. At the time of the September 2011 inspection, the inspector observed ninety universal waste batteries that were not labeled.

50. Respondent’s failure to properly label a universal waste container is a violation of 40 C.F.R. 273.14(a).

Failure to label containers with the words "Universal Waste – Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)"

51. The regulations at 40 C.F.R. § 273.14(e) require that universal waste containers be labeled with the words "Universal Waste – Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)."

52. At the time of the September 2011 inspection, the inspector observed five boxes of lamps that were unlabeled: two containers of four-foot lamps, one container of eight-foot lamps, one container of U-shaped lamps, and one container of HID lamps. The inspector determined that the facility failed to label the universal waste-lamps in containers marked as "Universal Waste-Lamps," "Waste Lamps," or "Used Lamps."

53. Respondent's failure to properly label a universal waste container is a violation of 40 C.F.R. § 273.14(e).

Failure to date or otherwise track universal waste (batteries and lamps) to demonstrate length of time of accumulation

54. The regulations at 40 C.F.R. 273.15(c) require that universal waste containers be dated or that a handler of universal waste otherwise track universal waste to demonstrate the length of time of accumulation.

55. At the time of the September 2011 inspection, the inspector observed ninety universal waste batteries that were not dated.

56. At the time of the September 2011 inspection, the inspector observed six containers of universal waste lamps: one container of eight-foot lamps, two containers of four-foot lamps, one container of U-shaped lamps, and one container of HID lamps. The container of eight-foot lamps was labeled as "universal waste" only, and the other containers were unlabeled. None of the containers were dated.

57. Respondent's failure to properly date or otherwise track length of time of accumulation of a universal waste storage container is a violation of 40 C.F.R. 273.15(c).

III. CONSENT AGREEMENT

58. Respondent and EPA agree to the terms of this CAFO and Respondent agrees to comply with the terms of the Final Order portion of this CAFO.

59. Respondent admits the jurisdictional allegations of this CAFO and agrees not to contest EPA's jurisdiction in this proceeding or any subsequent proceeding to enforce the terms of the

Final Order portion of this CAFO set forth below.

60. Respondent neither admits nor denies the factual allegations and legal conclusions set forth in this CAFO.

61. Respondent waives its right to a judicial or administrative hearing on any issue of fact or law set forth above, and its right to appeal the proposed Final Order portion of this CAFO.

62. Respondent and Complainant agree to conciliate the matters set forth in this CAFO without the necessity of a formal hearing and to bear their respective costs and attorney's fees.

63. This CAFO addresses all civil administrative claims for the RCRA violations identified above. Complainant reserves the right to take any enforcement action with respect to any other violations of RCRA or any other applicable law.

64. Nothing contained in the Final Order portion of this CAFO shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, state, and local environmental statutes and regulations and applicable permits.

65. Respondent certifies that by signing this CAFO that to best of its knowledge, Respondent's facility is in compliance with all requirements of RCRA, 42 U.S.C. § 6901 *et. seq.* and all regulations promulgated thereunder.

66. The effect of settlement described in Paragraph 63 above is conditioned upon the accuracy of Respondent's representations to EPA, as memorialized in Paragraph 65, above, of this CAFO.

67. In settlement of this matter, Respondent agrees to complete the following Supplemental Environmental Project ("SEP"), which the parties agree is intended to secure significant environmental and/or public health benefits. Respondent shall replace fluorescent bulbs with LED lighting, thereby reducing their universal waste stream, at a cost of no less than Sixteen Thousand Five Hundred and Twenty-One Dollars (\$16,521), in accordance with the Respondent's SEP Work Plan (attached hereto as Attachment A and incorporated by reference).

68. The total expenditure for the SEP shall be no less than \$16,521 and the SEP shall be completed no later than 90 days from effective date of the Final Order. All work required to complete the SEP shall be performed in compliance with all federal, state, and local laws and regulations.

69. Within thirty (30) days of completion of the SEP, Respondent shall submit a SEP Completion Report to EPA. The SEP Completion Report shall contain the following:

- (i) A detailed description of the SEP as implemented; and
- (ii) Itemized costs, documented by copies of purchase orders, receipts, or canceled checks.
- (iii) All reports shall be directed to the following:

Deborah Bredehoft
Environmental Engineer
Waste Enforcement and Materials Management Branch
U.S. Environmental Protection Agency
Region 7
11201 Renner Blvd.
Lenexa, Kansas 66219.

70. In itemizing its costs in the SEP Completion Report, Respondent shall clearly identify and provide acceptable documentation for all eligible SEP costs. Where the report includes costs not eligible for SEP credit, those costs must be clearly identified as such. For purposes of this paragraph, "acceptable documentation" includes invoices, purchase orders or other documentation that specifically identifies and itemizes the individual costs of the goods and/or services for which payment is being made. Canceled drafts do not constitute acceptable documentation unless such drafts specifically identify and itemize the individual costs of the goods and/or services for which payment is being made.

71. Respondent agrees to the payment of stipulated penalties as follows: In the event the Respondent fails to comply with any of the terms or provisions of this Consent Agreement relating to the performance of the SEP as set forth in paragraphs 67 and 68 of this CAFO and/or to the extent that the actual expenditures of the SEP does not equal or exceed the cost of the SEP described in paragraphs 67 and 68 of this CAFO, Respondent shall be liable for stipulated penalties according to the provisions set forth below:

- a. Except as provided in subparagraph (ii) and (iii) of this paragraph, if the SEP is not completed satisfactorily and timely pursuant to the agreement set forth in paragraphs 67 and 68 of this CAFO, Respondent shall be liable for and shall pay a stipulated penalty to the United States in the amount of Ten Thousand Seven Hundred and Eighty-Six Dollars (\$10,786), minus any documented expenditures determined by EPA to be acceptable for the SEP, for a total equal to 120% of the mitigated penalty amount.
- b. If Respondent fails to timely and completely submit the SEP Completion Report required by paragraph 69, Respondent shall be liable and shall pay a stipulated penalty in the amount of Two Hundred and Fifty Dollars (\$250).

- c. If the SEP is not completed in accordance with paragraphs 67 and 68 of this CAFO, but EPA determines that the Respondent: (a) made good faith and timely efforts to complete the project; and (b) certifies, with supporting documentation, that at least 90 percent of the amount of money which was required to be spent was expended on the SEP, Respondent shall not be liable for any stipulated penalty.

72. Stipulated penalties shall begin to accrue on the day after performance is due, and shall continue to accrue through the final day of the completion of the activity.

73. Respondent shall pay stipulated penalties not more than fifteen (15) days after receipt of written demand by EPA for such penalties. Method of payment shall be in accordance with the provisions of paragraph 1 of the Final Order portion of this CAFO.

74. Respondent certifies that it is not required to perform or develop the SEP by any federal, state, or local law or regulation; nor is Respondent required to perform or develop the SEP by agreement, grant or as injunctive relief in this or any other case or to comply with state or local requirements. Respondent further certifies that Respondent has not received, and is not presently negotiating to receive, credit in any other enforcement action for the SEP.

75. Respondent certifies that it is not a party to any open federal financial assistance transaction that is funding or could be used to fund the same activity as the SEP. Respondent further certifies that, to the best of its knowledge and belief after reasonable inquiry, there is no such open federal financial transaction that is funding or could be used to fund the same activity as the SEP, nor has the same activity been described in an unsuccessful federal financial assistance transaction proposal submitted to EPA within two years of the date of this settlement (unless the project was barred from funding as statutorily ineligible). For the purposes of this certification, the term "open federal financial assistance transaction" refers to a grant, cooperative agreement, loan, federally-guaranteed loan guarantee or other mechanism for providing federal financial assistance whose performance period has not yet expired.

76. For federal income tax purposes, Respondent agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP.

77. Any public statement, oral or written, in print, film or other media, made by Respondent making reference to the SEP shall include the following language: "This project was undertaken in connection with the settlement of an enforcement action taken by the United States Environmental Protection Agency."

78. Late Payment Provisions. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and

handling a delinquent claim. Respondent understands that its failure to timely pay any portion of the civil penalty described in paragraph 1 of the Final Order below or any portion of a stipulated penalty as stated in paragraph 71 above may result in the commencement of a civil action in Federal District Court to recover the full remaining balance, along with penalties and accumulated interest. In such case, interest shall accrue thereon at the applicable statutory rate on the unpaid balance until such civil or stipulated penalty and any accrued interest are paid in full.

79. Respondent consents to the issuance of the Final Order hereinafter recited and consents to the payment of the civil penalty as set forth in the Final Order.

80. The undersigned representative of Respondent certifies that he or she is fully authorized to enter the terms and conditions of the CAFO and to legally bind Respondent to it.

IV. FINAL ORDER

Pursuant to the authority of Section 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g), and according to the terms of this CAFO, IT IS HEREBY ORDERED THAT:

A. Payment of Civil Penalty

1. Within thirty (30) days of the effective date of this CAFO, Respondent will pay a civil penalty of Two Thousand Nine Hundred and Ninety-Six Dollars (\$2,996). The payment must be received at the address below on or before 30 days after the effective date of the Final Order (the date by which payment must be received shall hereafter be referred to as the "due date"). Such payment shall identify Respondent by name and docket number and shall be by certified or cashier's check made payable to the "United States Treasury" and sent to:

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, Missouri 63197-9000.

2. Wire transfers should be directed to the Federal Reserve Bank of New York:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, New York 10045

Field Tag 4200 of the Fedwire message should read
“D 68010727 Environmental Protection Agency.”

3. A copy of the payment documentation shall also be mailed to:

Regional Hearing Clerk
U.S. EPA, Region 7
11201 Renner Blvd.
Lenexa, Kansas 66219.

and to:

Kristen Nazar
Office of Regional Counsel
U.S. EPA, Region 7
11201 Renner Blvd.
Lenexa, Kansas 66219.

B. Compliance Actions

4. Within 60 days of the effective date of this CAFO, Respondent shall perform the following:
- a. NWIACC will perform an audit of their waste streams generated and provide documentation that a hazardous waste determination has been conducted on each waste stream.
 - b. NWIACC will provide documentation (both photographic and copies of removal documents) showing that they are complying with the universal waste requirements for lamps and batteries.

5. Documentation that the actions outlined in Paragraph 4 of the Final Order shall be provided to:

Deborah Bredehoft
Environmental Engineer
Waste Enforcement and Materials Management Branch
U.S. EPA, Region 7
11201 Renner Blvd.
Lenexa, Kansas 66219.

C. Reservation of Rights

6. Notwithstanding any other provision of this CAFO, EPA reserves the right to enforce the terms of the Final Order portion of this CAFO by initiating a judicial or administrative action under Section 3008 of RCRA, 42 U.S.C. § 6928, and to seek penalties against Respondent in an amount not to exceed Thirty-Two Thousand Five Hundred Dollars (\$32,500.00) per day per violation pursuant to Section 3008(c) of RCRA, for each day of non-compliance with the terms of the Final Order, or to seek any other remedy allowed by law. Pursuant to the Civil Monetary Penalties Inflation Adjustment Rule, 40 C.F.R. Part 19, penalties of up to \$32,500 per day are authorized for violations of Subchapter III of RCRA that occur between March 15, 2004, and January 12, 2009. For violations of Subchapter III of RCRA that occur after January 12, 2009, penalties of up to \$37,500 per day are authorized.

7. Complainant reserves the right to take enforcement action against Respondent for any future violations of RCRA and its implementing regulations and to enforce the terms and conditions of this CAFO.

8. Except as expressly provided herein, nothing in this CAFO shall constitute or be construed as a release from any claim (civil or criminal), cause of action, or demand in law or equity by or against any person, firm, partnership, entity, or corporation for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from Respondent's facility.

9. Notwithstanding any other provisions of this CAFO, an enforcement action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should EPA find that the future handling, storage, treatment, transportation, or disposal of solid waste or hazardous waste at Respondent's facility may present an imminent and substantial endangerment to human health and the environment.

D. Parties Bound

10. This Final Order portion of this CAFO shall apply to and be binding upon Respondent and Respondent's agents, successors and/or assigns. Respondent shall ensure that all contractors, employees, consultants, firms, or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this CAFO.

For the Complainant:

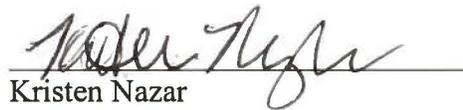
The United States Environmental Protection Agency

4-18-13
Date



Donald Toensing
Chief
RCRA Waste Enforcement and Materials Management Branch
Air and Waste Management Division

4/18/13
Date



Kristen Nazar
Assistant Regional Counsel
Office of Regional Counsel

For Respondent:
Northwest Iowa Community College

4/15/2013
Date

Mark Brown
Signature

MARK BROWN
Printed Name

VP OPERATIONS & FINANCE
Title

In the Matter of Northwest Iowa Community College
Docket No. RCRA-07-2012-0032

IT IS SO ORDERED. This Final Order is effective upon its final entry by the Regional Judicial Officer.

4/29/13
Date

Karina Borromeo
Karina Borromeo
Regional Judicial Officer

Attachment A

Northwest Iowa Community College SEP Work Plan

Northwest Iowa Community College's Supplemental Environmental Project consists of converting Rooms 207 and 222 over to LED lighting. NWICC has a total of thirty-nine T12 florescent three bulbs with two magnetic ballasts per fixture in these rooms. NWICC is proposing to replace these with LED fixtures. The LED lamps to be installed are Sharp 2x4 LED Troffer, which do not contain mercury, per the manufacturer. This would result in a total of 117 less florescent bulbs and 78 less ballasts having to be disposed of in the landfill in the years ahead. [The ballasts to be removed do not contain PCB's.] The costs associated with the project will be:

- Each fixture costs \$363, with a total of 39 light fixtures ($\$363 \times 39 = \$14,157$)
- The breakdown of the installation labor costs: 32 man hours at \$27 per hour ($32 \times \$27 = \864)
- The current cost to dispose of the fluorescent lamps is \$.36 per lamp.
- Installation of a control system, miscellaneous wire, wiring parts, and freight - \$1500.
- Total SEP Cost: \$16,521

NWICC will work to install within 3 months of the date the Consent Agreement and Final Order is finalized. We will have to schedule around class times.

IN THE MATTER OF Northwest Iowa Community College, Respondent
Docket No. RCRA-07-2012-0032

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Order was sent this day in the following manner to the addressees:

Copy emailed to Attorney for Complainant:

nazar.kristen@epa.gov

Copy by First Class Mail to:

Mark Brown, CPA
Vice President - Operations & Finance
Northwest Iowa Community College
Advance, Missouri 63730

Dated: May 1, 2013


Kathy Robinson
Hearing Clerk, Region 7
