

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103**

<b>In the Matter of:</b>	:
	:
<b>Fil-Tec, Inc.</b>	: <b>U.S. EPA Docket No. RCRA-03-2021-0034</b>
<b>12129 Mapleville Road</b>	:
<b>Smithsburg, Maryland 21720</b>	: <b>Proceeding under Sections 3008(a) and (g) of</b>
	: <b>the Resource Conservation and Recovery Act</b>
<b>Respondent.</b>	: <b>(RCRA), as amended, 42 U.S.C. §§ 6928(a) and</b>
	: <b>(g)</b>
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**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 III (“Complainant”) and Fil-Tec, Inc. (“Respondent”) (collectively the “Parties”), pursuant to Sections 3008(a) and (g) of the Solid Waste Disposal Act, commonly known as the Resource Conservation and Recovery Act of 1976, as amended by *inter alia*, the Hazardous and Solid Waste Amendments of 1984 (collectively referred to hereinafter as “RCRA”), 42 U.S.C. §§ 6928(a) and (g), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits (“Consolidated Rule of Practice”), 40 C.F.R. Part 22. RCRA Section 3008(a)(1), 42 U.S.C. § 6928(a)(1), 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 it to the Complainant. This Consent Agreement and the attached Final Order resolve Complainant’s civil penalty claims against Respondent under RCRA (or the “Act”) 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” or “the Agency”) 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. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), and 40 C.F.R. Part 271, Subpart A, the State of Maryland has been granted final authorization to administer its hazardous waste management program, set forth at the Code of Maryland Regulations (“COMAR”), Title 26, Subtitle 13 et seq., in lieu of the federal hazardous waste management program established under RCRA Subtitle C, 42 U.S.C. §§ 6921-6939e. The State of Maryland Hazardous Waste Management Regulations (“MdHWMR”) originally were authorized by EPA on February 11, 1985, pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b). EPA authorized revisions to the MdHWMR set forth at COMAR, Title 26, Subtitle 13, effective July 31, 2001 and September 24, 2004. The provisions of the revised federally-authorized program have thereby become requirements of RCRA Subtitle C and are enforceable by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).
6. Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), authorizes EPA to initiate an enforcement action whenever EPA determines that a person is in violation of any requirement of RCRA Subtitle C, EPA’s regulations thereunder, or any regulation of a state hazardous waste program which has been authorized by EPA. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), authorizes the assessment if a civil penalty against any person who violates any requirement of Subtitle C of RCRA.
7. EPA has given the State of Maryland, through the Maryland Department of the Environment (“MDE”), prior notice as of July 14, 2020 concerning the initiation of this action in accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

### **GENERAL PROVISIONS**

8. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order.
9. Except as provided in Paragraph 8, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.
10. Respondent agrees not to contest the jurisdiction of 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.
11. For purposes of this proceeding only, Respondent hereby expressly waives its right to

contest the allegations set forth in this Consent Agreement and waives its right to appeal the accompanying Final Order.

12. 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.
13. Respondent shall bear its own costs and attorney's fees in connection with this proceeding.
14. The settlement agreed to by Respondent and Complainant in this Consent Agreement and Final Order reflects the desire of the parties to resolve this matter without litigation.

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

15. 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.
16. For the times relevant to the allegations set forth below, Fil-Tec, Inc. ("Fil-Tec" or "Respondent" or "the Company") was a corporation, organized under the laws of the State of Maryland on February 3, 1978. As such, Fil-Tec was a 'person' as that term is defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), 40 C.F.R. § 260.10 and COMAR 26.13.01.03B(61) and was subject to the assessment of civil penalties for the violations alleged herein.
17. At all times relevant to the alleged violations contained herein, Respondent was the owner of a facility located at 12129 Mapleville Road, Smithsburg, Maryland 21720 (hereinafter "the Facility").
18. 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 Facility, as those terms are defined in COMAR 26.13.01.03.B(58) and (59).
19. The Facility does not have a permit for the treatment, storage or disposal of hazardous wastes.
20. As part of its operations, Respondent generates waste with EPA Hazardous Waste Nos. D001, D040 and F003. 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 Facility, as these terms are defined in COMAR 26.13.01.03.B(29), (73) and (31).
21. At all times relevant to the allegations set forth in this Consent Agreement, Respondent is, and has been, a Large Quantity Generator ("LQG") of hazardous waste, as that term is defined in COMAR.26.13.03.04.F(1)(a).

22. At all times relevant to the allegations set forth in this Consent Agreement, and as described below, Respondent is, and has been, engaged in the temporary “storage” of “solid waste” and “hazardous waste” in “containers” at the Facility, as those terms are defined in COMAR 26.13.01.03.B(9), (31), (73) and (76).
23. On June 19, 2019, inspectors from EPA and MDE conducted a Compliance Evaluation Inspection (“CEI”) of the Facility owned and operated by the Respondent, Fil-Tec, Inc.
24. On July 15, 2020, EPA sent a Notice of Potential Violations and Opportunity to Show Cause letter (“Show Cause letter”) to Respondent advising it of EPA’s preliminary findings of potential violations at the Facility and offering the Respondent an opportunity to provide such additional information as it believed the Agency should review and consider before reaching any final conclusions as to the Respondent’s compliance with the MdHWMR and federal hazardous waste regulations at the Facility.
25. In response to the Show Cause Letter, Respondent provided EPA with additional information in a written response dated August 21, 2020, during a settlement conference on August 28, 2020, and in a subsequent written response on September 11, 2020.
26. On the basis of EPA’s findings during the Inspection and in Respondent’s subsequent responses to EPA’s Show Cause letter and settlement conference described above, EPA concludes that Respondent has violated certain requirements and provisions of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, certain federally-authorized MdHWMR requirements promulgated thereunder, and certain applicable federal hazardous waste regulations.
27. At all times relevant to the allegations set forth in this Consent Agreement, Respondent’s Facility is, and has been, a hazardous waste storage “facility” as that term is defined in COMAR 26.13.01.03.B(23).

#### **Count I**

#### **Operating a Treatment, Storage or Disposal Facility Without a Permit or Interim Status**

28. The Allegations of Paragraphs 1 through 27 of this Consent Agreement are incorporated herein by reference.
29. Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), 40 C.F.R. §§ 262 & 270 require, with certain exceptions not relevant here, that no person who owns or operates a facility for the treatment, storage or disposal of hazardous waste may do so without first obtaining a permit or interim status for the facility. COMAR 26.13.07.01A also requires a permit or interim status for the treatment, storage or disposal of hazardous waste.

30. RCRA § 3005(e), 42 U.S.C. § 6925(e), provides, in pertinent part, that any person who owns or operates a facility required to have a permit under RCRA § 3005, which facility was in existence on November 19, 1980, or is in existence on the effective date of statutory or regulatory provisions that render the facility subject to the requirement to have a permit, has complied with the notification requirements of RCRA § 3010(a), 42 U.S.C. § 6930(a), and has applied for a permit under RCRA § 3005, shall be treated as having been issued such permit (*i.e.*, “interim status”) until such time as final administrative disposition of such application is made.
31. Respondent has never had “interim status” pursuant to RCRA Section 3005(e) or a permit issued pursuant to RCRA Section 3005(a) for the treatment, storage, or disposal of hazardous waste at the Facility.
32. Pursuant to COMAR 26.13.03.05E(1), large quantity generators of hazardous waste who accumulate hazardous waste on-site for less than 90 days are exempt from the requirement to obtain a permit for such accumulation, so long as the hazardous waste is stored in accordance with a number of conditions set forth in that section, including, *inter alia*:
  - a. Pursuant to COMAR 26.13.03.05E(1)(d), the generator must comply with the requirements of COMAR 26.13.05.09, including:
    - i. The requirement to keep containers holding hazardous waste always closed during storage, except when necessary to add or remove waste, in accordance with COMAR 26.13.05.09D; and,
    - ii. The requirement to inspect areas where containers are stored, at least weekly, looking for leaks and for deterioration of containers and the containment system caused by corrosion and other factors, in accordance with COMAR 26.13.05.09E.
  - b. Pursuant to COMAR 26.13.03.05E(1)(e), the generator must clearly mark each container with the date upon which each period of accumulation begins so that the mark is visible for inspection on each container;
  - c. Pursuant to COMAR 26.13.03.05E(1)(f)(ii), while accumulating hazardous waste in containers on site, the generator must label or mark each container with the words “Hazardous Waste;”
  - d. Pursuant to COMAR 26.13.03.05E(1)(g), the generator must comply with the requirements of COMAR 26.13.05.02G, .03, and .04, including the requirements that:
    1. Facility personnel take part in an annual review of the initial hazardous waste management training required in COMAR 26.13.05.02G(1) in accordance with COMAR 26.13.05.02G(3);

2. The owner or operator maintain at the facility a written job description for each position related to hazardous waste management in accordance with COMAR 26.13.05.02G(4)(b);
  3. The owner or operator maintain at the facility records that document the training or job experience required under COMAR 26.13.05.02G(1), (2) and (3) has been given to, and completed by, facility personnel in accordance with COMAR 26.13.05.02G(4)(d);
- e. Pursuant to COMAR 26.13.03.05.E(1)(g), which in turn references COMAR 26.13.05.04.C(3) - (6), the generator is required to maintain a contingency plan which includes, among other things, the following:

**.04 Contingency Plan and Emergency Procedures**

\* \* \*

**C. Content of Contingency Plan**

\* \* \*

- (3) The plan shall describe arrangements agreed to by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services, pursuant to Regulation .03H of this chapter.
- (4) The plan shall list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator (see §F of this regulation), and this list shall be kept up to date. When more than one person is listed, one shall be named as primary emergency coordinator and others shall be listed in the order in which they will assume responsibility as alternates. For new facilities, this information shall be supplied to the Secretary at the time of certification, rather than at the time of permit application.
- (5) The plan shall include a list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment, where this equipment is required. This list shall be kept up to date. In addition, the plan shall include the location and a physical description of each item on the list, and a brief outline of its capabilities.
- (6) The plan shall include an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. This plan shall describe signals to be used to begin evacuation, evacuation routes and alternate evacuation routes (when the primary routes could be blocked by releases of hazardous waste or fires).

- f. Pursuant to COMAR 26.13.03.05.E(1)(k), a generator must maintain an inspection log or summary in accordance with the following, among others:
- (ii) The log or summary includes the date and time of each inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs made or other remedial actions taken[...].
33. At the time of the June 19, 2019 CEI, the Facility had an open container of undated, unlabeled D001, F003 solvent-contaminated absorbent waste pads in the Bobbin Area.
34. At the time of the June 19, 2019 CEI, the Facility had two open containers of 8-foot waste lamps and three open containers of 4-foot waste lamps located in the Electrical Room.
35. At the time of the June 19, 2019 CEI, the Facility had undated accumulation containers as follows:
- 1. Undated and open white 5-gal container of D001, F003 solvent-contaminated absorbent pads;
  - 2. Undated container of (D040) hazardous waste TCE;
  - 3. Four (4) undated 55-gal containers of D001, F003 waste solvent; and
  - 4. Five undated containers of waste lamps stored in the Electrical Room.
- [NOTE: Since the State of Maryland is not authorized to manage waste lamps as universal waste, waste lamps are deemed hazardous waste under RCRA Subtitle C. The universal waste regulations also require generators to track the accumulation time of universal waste. See 40 C.F.R. §§ 273.15(c), 273.35(c); COMAR 26.13.10.17.B(3).]
36. At the time of the June 19, 2019 CEI, the above hazardous waste containers listed for Items 1 to 4 above also were not properly labeled with the words “Hazardous Waste.”
37. At the time of the June 19, 2019 CEI, the Facility was missing weekly inspection records of its 90-Day Storage Area from 2016 to 2019.
38. At the time of the June 19, 2019 CEI, the Facility provided a copy of a weekly inspection report dated August 1, 2017, signed by “Bob R.” However, the Facility failed to record the time on the existing August 1, 2017 weekly inspection report, as required by COMAR § 26.13.03.05.E(1)(k)(ii).
39. At the time of the June 19, 2019 CEI, based on the information gathered during the CEI, the Facility was unable to provide annual hazardous waste training records for any of its employees for calendar years 2016 to 2019, as required by COMAR 26.13.03.05.E(1)(g), which in turn references COMAR § 26.13.05.02.G(3).

40. At the time of the June 19, 2019 CEI, based on the information gathered during the CEI, job descriptions for positions at the facility related to hazardous waste management did not include a description of the hazardous waste management duties or the requisite skill that are required for the position, as required by COMAR § 26.13.03.05.E(1)(g), which in turn references COMAR 26.13.05.02.G(4)(b).
41. At the time of the June 19, 2019 CEI, based on the information gathered during the CEI, the Facility was missing the following elements from its contingency plan:
  - a. A description of arrangements agreed to by emergency responders to coordinate emergency services.
  - b. A list of emergency equipment capabilities and the location of such equipment.
  - c. An evacuation plan that lists the primary and alternate evacuation routes.
42. In failing to comply with the COMAR 26.13.03.05E permit exemption requirement, the Respondent did not qualify for the permit exemption, and engaged in the storage of hazardous waste without a permit. Therefore, Respondent is in violation of COMAR 26.13.07.01A and is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

**Count II**  
**Failure to Make a Waste Determination**

43. The Allegations of Paragraphs 1 through 42 of this Consent Agreement are incorporated herein by reference.
44. COMAR 26.13.03.02.A requires that a person who generates a solid waste, as defined in COMAR 26.13.02.02, shall determine if that waste is a hazardous waste.
45. At the time of the June 19, 2019 CEI, the Facility had failed to make a waste determination for the following:
  - a. Aerosol cans that are no longer useable are discarded in the regular trash;
  - b. Solvent-contaminated absorbent pads for cleaning coating spills, which are discarded in the regular trash in the Coating Room;
  - c. Containers of waste solvent which are allowed to dry out, and for which the solid content is scraped out and discarded as non-hazardous waste;
  - d. Solvent-contaminated absorbent pads that are accumulated in an open container after being used to cleanup spills in the Bobbin Area, which are then discarded in the regular trash.
46. In failing to make waste determinations for the above wastes, the Respondent was in violation of COMAR 26.13.03.02.A and is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

**Count III**  
**Failure to Keep Hazardous Waste Containers Closed**

47. The Allegations of Paragraphs 1 through 46 of this Consent Agreement are incorporated herein by reference.

48. COMAR 26.13.05.09.D, requires the following:

D. Management of Containers. A container holding hazardous waste shall always be closed during storage, except when it is necessary to add or remove waste, and the container may not be opened, handled, or stored in a manner which may rupture the container or cause it to leak.

49. There were open containers of hazardous waste at the Facility as follows:

1. Open Containers of Hazardous Waste:
  - a. One undated, unlabeled, and open white 5-gal container of D001, F003 solvent-contaminated absorbent pads was located in the Bobbin Area or in the Coating Room.
2. Open Containers of Universal Waste Lamps (5):
  - a. Two open containers of 8-foot waste lamps were located in the Electrical Room.
  - b. Three open containers of 4-foot waste lamps were located in the Electrical Room.

50. In failing to keep hazardous waste containers closed, the Respondent was in violation of COMAR 26.13.05.09.D, and is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

**Count IV**  
**Failure to Conduct Inspections of Hazardous Waste Storage Areas on a Weekly Basis**

51. The Allegations of Paragraphs 1 through 50 of this Consent Agreement are incorporated herein by reference.

52. Failure to conduct weekly inspections where containers of hazardous waste are stored is an independent violation of COMAR 26.13.05.09.E, which states:

The owner or operator shall inspect areas where containers are stored, at least weekly, looking for leaks and for deterioration of containers and the containment system caused by corrosion and other factors.

53. Based on records, the Facility failed to perform weekly inspections of its 90-Day Area from 2016 to 6/19/19.
54. In failing to perform weekly inspections of its 90-Day Area, the Respondent was in violation of COMAR 26.13.05.09.E, and is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

**Count V**

**Failure to record complete information on weekly inspection records**

55. The Allegations of Paragraphs 1 through 54 of this Consent Agreement are incorporated herein by reference.
56. COMAR 26.13.05.02.F(4) requires that the generator record inspections of the facility, including inspection of the container areas required by COMAR 26.13.05.09.E, in an inspection log or summary, which at a minimum, includes the date and the time of the inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs made or other remedial actions.
57. Failure to record the date and time of each inspection of areas where hazardous waste containers are stored is a violation of COMAR 26.13.05.02.F(4).
58. At the time of the June 19, 2019 CEI, the Facility provided an inspection record dated August 1, 2017, signed by "Bob R." The weekly inspection record showed that the Facility did not record the time at which the inspection was conducted, as required by COMAR 26.13.05.02.F(4).
59. In failing to record the time at which the August 1, 2017 inspection was conducted, the Respondent was in violation of COMAR 26.13.05.02.F(4), and is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

**Count VI**

**Failure to provide annual hazardous waste training**

60. The Allegations of Paragraphs 1 through 59 of this Consent Agreement are incorporated herein by reference.
61. Failure to provide annual hazardous waste training to employees is a violation of COMAR 26.13.05.02.G(3), which states:

G. Personnel Training

\* \* \*

- (3) Facility personnel shall take part in an annual review of the initial training required in § G(1), of this regulation.
62. During the CEI, the Facility was unable to provide annual hazardous waste training records for any of its employees for calendar years 2016 to 2019.
63. In failing to provide annual hazardous waste training, the Respondent was in violation of COMAR 26.13.05.02.G(3), and is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

**Count VII**  
**Failure to maintain hazardous waste job description records**

64. The Allegations of Paragraphs 1 through 63 of this Consent Agreement are incorporated herein by reference.
65. Failure to maintain hazardous waste job description records is a violation of COMAR 26.13.05.02.G(4), which state the following:
- (4) The owner or operator shall maintain the following documents and records at the facility:
- (a) The job title of each position at the facility related to hazardous waste management, and the name of the employee filling each job.
- (b) A written job description for each position listed under § G(4)(a), of this regulation. This description may be consistent in its degree of specificity with descriptions for other similar positions in the same company location or bargaining unit, but shall include the requisite skill, education, or other qualifications, and duties of employees assigned to each position.
- (c) A written description of the type and amount of both introductory and continuing training that will be given to each person filling a position listed under § G(4)(a), of this regulation.
66. The Facility provided a job description for its employees in positions at the facility related to hazardous waste management which did not include a description of the hazardous waste management responsibilities that are required for the position.
67. In failing to include a description of the hazardous waste management responsibilities in the job description for its employees, the Respondent was in violation of COMAR 26.13.05.02.G(4)(b), and is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

**Count VIII**  
**Failure to prepare an adequate contingency plan**

68. The Allegations of Paragraphs 1 through 67 of this Consent Agreement are incorporated herein by reference.

69. Failure to prepare an adequate Contingency Plan is an independent violation of COMAR 26.13.05.04.C(3) - (6), which states the following:

**.04 Contingency Plan and Emergency Procedures**

\* \* \*

C. Content of Contingency Plan

\* \* \*

(3) The plan shall describe arrangements agreed to by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services, pursuant to Regulation .03H of this chapter.

(4) The plan shall list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator (see §F of this regulation), and this list shall be kept up to date. When more than one person is listed, one shall be named as primary emergency coordinator and others shall be listed in the order in which they will assume responsibility as alternates. For new facilities, this information shall be supplied to the Secretary at the time of certification, rather than at the time of permit application.

(5) The plan shall include a list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment, where this equipment is required. This list shall be kept up to date. In addition, the plan shall include the location and a physical description of each item on the list, and a brief outline of its capabilities.

(6) The plan shall include an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. This plan shall describe signals to be used to begin evacuation, evacuation routes and alternate evacuation routes (when the primary routes could be blocked by releases of hazardous waste or fires).

70. The Facility's contingency plan included the following deficiencies:

- a) The list of emergency coordinators in the Facility's plan included an employee retired from Fil-Tec. A current employee is required to be on call in the emergency coordinator position in the event of an emergency.
- b) The following elements were missing from the contingency plan:
  - i) A description of arrangements agreed to by emergency responders to coordinate emergency services;
  - ii) A list of emergency equipment capabilities and the location of such equipment;
  - iii) An evacuation plan that lists the primary and alternate evacuation routes.

71. Due to the missing and outdated information described above, the Respondent was in violation of the Contingency Plan requirements of COMAR 26.13.05.04C(3) - (6), which require the Facility to prepare an adequate contingency plan, and is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

#### **CIVIL PENALTY**

72. In settlement of 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 EIGHTY-FIVE THOUSAND SIX-HUNDRED EIGHTY dollars (\$85,680.00), which Respondent shall be liable to pay in accordance with the terms set forth below.

73. The civil penalty is based upon EPA's consideration of a number of factors, including the penalty criteria ("statutory factors") set forth in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), including the following: the seriousness of the violation and any good faith efforts to comply with the applicable requirements. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's October, 1990 RCRA Civil Penalty Policy, as revised in June 2003 and May 2020 ("RCRA Penalty Policy"), which reflect the statutory penalty criteria and factors set forth at Section 3008(a)(3) and (g) of RCRA, 42 U.S.C. §§ 6928(a)(3) and (g), the appropriate Adjustment of Civil Monetary Penalties for Inflation, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA's civil penalty policies to account for inflation.

74. Payment of the civil penalty amount, and any associated interest, administrative fees, and late payment penalties owed, shall be made by either cashier's check, certified check or electronic wire transfer, in the following manner:

- a. All payments by Respondent shall include reference to Respondent's name and address, and the Docket Number of this action, *i.e.*, EPA Docket No. RCRA-03-2021-0034;
- b. All checks shall be made payable to the "United States Treasury";
- c. All payments made by check and sent by regular mail shall be addressed and

mailed to:

U.S. Environmental Protection Agency  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

- d. For additional information concerning other acceptable methods of payment of the civil penalty amount see:

<https://www.epa.gov/financial/makepayment>

- e. A copy of Respondent's check or other documentation of payment of the penalty using the method selected by Respondent for payment shall be sent simultaneously via email to:

Daniel T. Gallo  
Assistant Regional Counsel  
U.S. EPA, Region III (3RC40)  
1650 Arch Street  
Philadelphia, PA 19103-2029  
[gallo.dan@epa.gov](mailto:gallo.dan@epa.gov)

74. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment of the penalty as specified herein shall result in the assessment of late payment charges including interest, penalties and/or administrative costs of handling delinquent debts.
75. Payment of the civil penalty is due and payable immediately upon receipt by Respondent of a true and correct copy of the fully executed and filed Consent Agreement and Final Order. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed Consent Agreement and Final Order, with a date stamp indicating the date on which the Consent Agreement and Final Order was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed EPA by Respondent in accordance with 40 C.F.R. § 13.9(a).
76. INTEREST: In accordance with 40 C.F.R. § 13.11(a)(1), interest on the civil penalty assessed in this Consent Agreement and Final Order will begin to accrue on the date that a copy of the fully executed and filed Consent Agreement and Final Order is electronically transmitted, mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalties that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).

77. ADMINISTRATIVE COSTS: The costs of the EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives – Case Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
78. LATE PAYMENT PENALTY: A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
79. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.

#### **GENERAL SETTLEMENT CONDITIONS**

80. 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.
81. Respondent certifies that any information or representation it has supplied or made to 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. EPA shall have the right to institute further actions to recover appropriate relief if 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 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**

82. Respondent certifies to 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**

83. 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 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 Resource Conservation and Recovery Act ("RCRA"), or any regulations promulgated thereunder.

**RESERVATION OF RIGHTS**

84. This Consent Agreement and Final Order resolves only EPA's claims for civil penalties for the specific violation[s] alleged against Respondent in this Consent Agreement and Final Order. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which 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). EPA reserves any rights and remedies available to it under RCRA, 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.

**EXECUTION/PARTIES BOUND**

85. This Consent Agreement and Final Order shall apply to and be binding upon the EPA, the 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 the 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**

86. The effective date of this Consent Agreement and Final Order is the date on which the Final Order, signed by the Regional Administrator of EPA, Region III, or his/her 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**

87. This Consent Agreement and Final Order constitutes 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,

In Re: Fil-Tec, Inc.  
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warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed in this Consent Agreement and Final Order.

In Re: Fil-Tec, Inc.  
EPA Docket No. RCRA-03-2021-0034

For Respondent:

Date: 2-12-21

By:   
Ted Schoeck  
President

In Re: Fil-Tec, Inc.  
EPA Docket No. RCRA-03-2021-0034

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 III, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

Date: \_\_\_\_\_

By: \_\_\_\_\_

Karen Melvin  
Director, Enforcement and Compliance  
Assurance Division  
U.S. EPA – Region III  
Complainant

Attorney for Complainant:

Date: \_\_\_\_\_

By: \_\_\_\_\_

Daniel T. Gallo  
Assistant Regional Counsel  
U.S. EPA – Region III

In Re: Fil-Tec, Inc.  
EPA Docket No. RCRA-03-2021-0034

**BEFORE THE UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION III**

**In the Matter of:**

**Fil-Tec, Inc.  
12129 Mapleville Road  
Smithsburg, MD 21720,**

**Respondent.**

**EPA Docket No. RCRA-03-2021-0034**

**FINAL ORDER**

**Proceeding under Section 3008(a) and (g)  
of the Resource Conservation and  
Recovery Act (RCRA), as amended,  
42 U.S.C. § 6928(a) and (g)**

**FINAL ORDER**

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III, and Respondent, Fil-Tec, Inc., have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with 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 terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA’s October 1990 RCRA Civil Penalty Policy, as revised in June, 2003 and May, 2020 (“RCRA Penalty Policy”), which reflects the statutory penalty criteria and factors set forth at Sections 3008(a)(3) and (g) of RCRA, 42 U.S.C. §§ 6982(a)(3) and (g), the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA’s civil penalty policies to account for inflation.

**NOW, THEREFORE, PURSUANT TO** Section 3008(a) of the Resource Conservation and Recovery Act (“RCRA”), as amended, 42 U.S.C. § 6928(a) and (g), and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of ***EIGHTY-FIVE THOUSAND SIX-HUNDRED EIGHTY DOLLARS (\$85,680.00)***, in accordance with the payment provisions set forth in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Consent Agreement and does not waive, extinguish or otherwise affect Respondent’s obligation to comply with all applicable provisions of RCRA Subtitle C and the regulations promulgated thereunder.

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Joseph J. Lisa  
Regional Judicial and Presiding Officer  
U.S. EPA Region III