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EPA REGION 6

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
DALLAS, TEXAS

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|----------------------|---|------------------------------|
| In the Matter of     | § |                              |
|                      | § |                              |
| ACCP Inc.            | § | Docket No. RCRA-06-2025-0936 |
| Missouri City, Texas | § |                              |
|                      | § |                              |
| Respondent.          | § |                              |

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**CONSENT AGREEMENT AND FINAL ORDER**

**I. PRELIMINARY STATEMENT**

1. This is an administrative action commenced and concluded under Section 3008(a) of the Resource Conservation and Recovery Act ("RCRA" or the "Act"), 42 U.S.C. § 6928(a), and Sections 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules") as codified at 40 C.F.R. Part 22.

2. The Administrator of the U.S. Environmental Protection Agency has delegated enforcement authority under Section 3008 of RCRA, 42 U.S.C. § 6928, to the Regional Administrator of EPA Region 6, who in turn has delegated this authority to the Director of the Enforcement and Compliance Assurance Division, EPA Region 6 ("EPA" or "Complainant").

3. ACCP Inc. ("ACCP" or "Respondent") is a corporation doing business in the State of Texas.

4. Notice of this action has been given to the State of Texas, under Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

5. Complainant and Respondent, having agreed that settlement of this action is in the public interest, consent to the entry of this Consent Agreement along with the corresponding Final Order hereinafter known together as the "CAFO" without the adjudication of any issues of law or fact herein.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

## II. JURISDICTION

7. This CAFO is entered into under Section 3008(a) of RCRA, as amended, 42 U.S.C. § 6928(a), and 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).

8. Jurisdiction for this action is conferred upon EPA by Sections 3006 and 3008 of RCRA, 42 U.S.C. §§ 6926 and 6928.

9. The Regional Judicial Officer is authorized to ratify this CAFO which memorializes a settlement between Complainant and Respondent. 40 C.F.R. §§ 22.4(b) and 22.18(b).

10. The issuance of this CAFO simultaneously commences and concludes this proceeding. 40 C.F.R. § 22.13(b).

## III. STATUTORY AND REGULATORY BACKGROUND

11. Federal regulation of hazardous waste is primarily based on RCRA, enacted on October 21, 1976, to amend the Solid Waste Disposal Act ("SWDA"), and the Hazardous and Solid Waste Amendments ("HSWA") enacted by Congress in 1984 to further amend the Solid Waste Disposal Act. RCRA establishes a "cradle-to-grave" program to be administered by the Administrator of EPA and authorized states for regulating the generation, transportation, treatment, storage, and disposal of hazardous waste. See 42 U.S.C. § 6901 *et seq.*

12. RCRA's Subchapter III (RCRA §§ 3001-3023, 42 U.S.C. §§ 6921-6940, known as "Subtitle C") required EPA to promulgate regulations establishing performance standards applicable to facilities that generate, transport, treat, store, or dispose of hazardous wastes. Together, RCRA Subtitle C and its implementing regulations, set forth at 40 C.F.R. Parts 260 – 279, comprise EPA's RCRA hazardous waste program.

13. 40 C.F.R Parts 260 through 279, govern generators and transporters of hazardous waste and facilities that treat, store, and dispose of hazardous waste, pursuant to Sections 3002, 3003, and 3004 of RCRA, 42 U.S.C. §§ 6922, 6923, and 6924. These regulations prohibit land disposal of certain hazardous wastes and provide detailed requirements governing the activities of those who generate hazardous waste and those who are lawfully permitted to store, treat, and dispose of hazardous waste.

14. Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), directed EPA to promulgate regulations requiring each person owning or operating a hazardous waste treatment, storage, or disposal facility to have a RCRA permit; this section of RCRA further provides in relevant part that the treatment, storage, or disposal of hazardous waste is prohibited except in accordance with a RCRA permit.

15. Pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, the Administrator of EPA may authorize a state to administer its own hazardous waste program in lieu of the federal program when the Administrator deems the state program to be equivalent to and consistent with the federal program. Any violation of regulations promulgated pursuant to Subtitle C (Sections 3001-3023 of RCRA, 42 U.S.C. §§ 6921-6939e) or any state provision authorized pursuant to Section 3006 of RCRA, constitutes a violation of RCRA, subject to the assessment of

civil penalties<sup>1</sup> and issuance of compliance orders as provided in Section 3008 of RCRA, 42 U.S.C. § 6928.

16. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), EPA granted the State of Texas final authorization to administer a state hazardous waste program in lieu of the federal RCRA program.<sup>2</sup>

17. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), EPA may enforce the federally approved State of Texas's hazardous waste program. EPA also retains jurisdiction and authority to initiate an independent enforcement action, pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

18. The Texas Commission on Environmental Quality ("TCEQ") codified the applicable RCRA authorized program at Texas Administrative Code ("Tex. Admin. Code"), Title 30, [40 C.F.R. Part 262, 265, and/or 270].

19. 30 Tex. Admin. Code Chapter 324, Subpart A, establishes that generators, transporters, and transfer facilities of used oil must comply with the requirements in 40 C.F.R. Part 279, Standards for the Management of Used Oil. See 30 Tex. Admin. Code §§ 324.6, 324.11.

### Definitions

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<sup>1</sup> The Administrator may assess an inflation-adjusted civil penalty per day for each violation of Subtitle C of RCRA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and 40 C.F.R. § 19.4.

<sup>2</sup> On December 26, 1984, the State of Texas received final authorization for its base Hazardous Waste Management Program (49 Fed. Reg. 48300). Subsequent revisions have been made to the Texas Hazardous Waste Program and authorized by EPA. Except as otherwise provided, all citations found within this CAFO are to the "EPA-Approved Texas Statutory and Regulatory Requirements Applicable to the Hazardous Waste Management Program" dated December 2015, incorporated by reference under 40 C.F.R. § 272.2201(c)(1)(i) effective on April 10, 2020. (85 Fed. Reg. 20187, 20190; 40 C.F.R. § 272.2201: Texas State-Administered Program: Final Authorization. References and citations to the "EPA-Approved Texas Statutory and Regulatory Requirements Applicable to the Hazardous Waste Management Program" may vary slightly from the State of Texas's published version. For ease of reference, the corresponding and incorporated by reference C.F.R. citations will follow in brackets.

20. 30 Tex. Admin. Code § 335.1(138), [40 C.F.R. § 261.2], defines a "solid waste" as any discarded material that is not otherwise excluded under § 335.1(138)(A)(i-iv), [40 C.F.R. § 261.4(a)], or that is not excluded by variance. A discarded material is any material which is abandoned, recycled, inherently waste-like, or a military munition.

21. 30 Tex. Admin. Code § 335.1(69) defines a "hazardous waste" as any waste identified or listed as hazardous waste by the Administrator of EPA in accordance with the federal SWDA, as amended by RCRA, 42 U.S.C. §§ 6901 *et seq.* EPA defines a "hazardous waste" as a solid waste that is not excluded from regulation, and it exhibits any of the characteristics of hazardous waste identified in 40 C.F.R. Part 261, Subpart C, or it is listed in Part 261, Subpart D, [40 C.F.R. § 261.3].

22. Pursuant to 30 Tex. Admin. Code § 335.261(b)(16)(F)(i), [40 C.F.R. § 273.2], the term "battery" means a device consisting of one or more electrically connected electrochemical cells which is designed to receive, store, and deliver electric energy.

23. Pursuant to 30 Tex. Admin. Code § 324.1, [40 C.F.R. § 279.1], the term "used oil" means any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of such use is contaminated by physical or chemical impurities.

24. Pursuant to 30 Tex. Admin. Code § 324.1, [40 C.F.R. § 279.1], the term "used oil generator" means any person, by site, whose act or process produces used oil or whose act first causes used oil to become subject to regulation.

25. Pursuant to 30 Tex. Admin. Code § 324.1, [40 C.F.R. § 279.1], the term "used oil transporter" means any person who transports used oil, any person who collects used oil from more than one generator and transports the collected oil, and owners and operators of used oil

transfer facilities.

26. Pursuant to 30 Tex. Admin. Code § 324.1, [40 C.F.R. § 279.1], the term "used oil transfer facility" means any transportation related facility, including loading docks, parking areas, storage areas, and other areas where shipments of used oil are held for more than 24 hours and not longer than 35 days during the normal course of transportation or prior to an activity performed pursuant to 40 C.F.R. § 279.20(b)(2).

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

27. Respondent owns and operates a waste transportation company located at 4034 N Barnett Way, Missouri City, Texas 77459 (EPA ID number TXR000047845). The transportation business includes two used oil transfer facilities, the Channelview facility located at 2728 Appelt Dr, Houston, Texas 77015; and the Dickinson facility located at 903 Avenue South, Dickinson, Texas 77539 (the "Facility" or the "Facilities"). 30 Tex. Admin. Code § 3.2(25), [40 C.F.R. § 260.10].

28. Respondent is a "person" within the meaning of Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), 30 Tex. Admin. Code § 3.2(25), [40 C.F.R. § 260.10].

29. Each of the Facilities is a "facility" within the meaning of 30 Tex. Admin. Code § 335.1(59), [40 C.F.R. § 260.10].

30. The Facilities provide management and transportation services for waste and used oil from ships.

31. From December 6 through 7, 2023, EPA conducted an on-site RCRA compliance evaluation inspection of the Facilities (the "Inspection"). During the Inspection, EPA walked through each Facility with an ACCP representative and discovered the following:

a. The Facilities stored and transported used oil. The Dickinson facility received used oil in 55-gallon drums, then transported the used oil to the Channelview facility, where it is then picked up by another company for recycling.

b. Used oil drums were stored on-site typically for a week before transfer. The Facilities did not have berms, dikes, or retaining walls around where the used oil drums were stored.

c. Respondent did not have any tracking documents for shipments of used oil accepted by the Channelview facility from the Dickinson facility.

d. The Dickinson facility had corroded 55-gallon drums of unidentified residual material generated by Respondent and unlabeled universal waste batteries without an accumulation start date.

32. Respondent is a "generator" and "transporter" of "used oil" as those terms are defined in 30 Tex. Admin. Code § 324.1, [40 C.F.R. § 279.1].

33. At the time of the Inspection, each of the Facilities were identified as a "used oil transfer facility" as defined in 30 Tex. Admin. Code § 324.1, [40 C.F.R. § 279.1].

34. As a generator and transporter of used oil, who owns used oil transfer facilities, Respondent is subject to the regulations set forth in 30 Texas Admin. Code Chapter 324, 335, Subchapters A and C, [40 C.F.R. Part 262, 273, and 279].

#### V. ALLEGED VIOLATIONS

35. The facts stated in the EPA Findings of Fact and Conclusions of Law above are herein incorporated.

36. Complainant hereby states and alleges that Respondent has violated the RCRA

including federal and state regulations promulgated thereunder, as stated below.

### **Secondary Container Requirements**

37. Pursuant 30 Tex. Admin. Code § 324.11, [40 C.F.R. § 279.45(d)(1)], containers used to store used oil at transfer facilities must be equipped with a secondary containment system. The secondary containment system must consist of, at a minimum: (i) dikes, berms or retaining walls; and (ii) the floor must cover the entire area within the dikes, berms, or retaining walls; or (iii) an equivalent secondary containment system.

38. EPA identified that both of the Facilities did not have berms, dikes, or retaining walls around where the used oil is stored. Therefore, Respondent violated 30 Tex. Admin. Code § 324.11, [40 C.F.R. § 279.45(d)(1)].

### **Failure to Keep Required Records**

39. Pursuant to 30 Tex. Admin. Code § 324.11, [40 C.F.R. § 279.46(a)], used oil transporters must keep a record of each used oil shipment accepted for transport.

40. Respondent did not create and keep the requisite tracking records for each used oil shipment accepted by the Channelview facility from the Dickinson facility in violation of 30 Tex. Admin. Code § 324.11, [40 C.F.R. § 279.46(a)].

### **Failure to Make Adequate Hazardous Waste Determinations**

41. Pursuant to 30 Tex. Admin. Code § 335.62, [40 C.F.R. § 262.11(c)], a person who generates a solid waste, as defined in 30 Tex. Admin. Code § 335.1, [40 C.F.R. § 262.40(c)] must determine if the solid waste is hazardous pursuant to 30 Tex. Admin. Code § 335.504 and must classify any nonhazardous waste under the provisions of 30 Tex. Admin. Code, Subchapter R.

42. Respondent did not make hazardous waste determinations for unidentified

residual material contained in three corroded 55-gallon drums at Respondent's Facilities.

43. Respondent violated the requirements of RCRA, and the regulations promulgated at 30 Tex. Admin. Code § 335.62, [40 C.F.R. § 262.11] by failing to make the requisite hazardous waste determination on solid waste generated by Respondent at the Facilities.

#### **Label Requirements for Used Oil Storage**

44. Pursuant 30 Tex. Admin. Code § 324.6, [40 C.F.R. § 279.22(c)], containers and aboveground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words "Used Oil."

45. Respondent did not label twenty-seven (27) 55-gallon drums containing used oil at the Dickinson facility in violation of 30 Tex. Admin. Code § 324.6, [40 C.F.R. § 279.22(c)].

#### **Label Requirements for Universal Waste Batteries**

46. Pursuant to 30 Texas Admin. Code § 335.261(a), [40 C.F.R. § 273.14(a)], a small quantity handler of universal waste must label or mark the universal waste to identify the type of universal waste. Specifically, universal waste batteries (i.e., each battery), or a container in which the batteries are contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste—Battery(ies)," or "Waste Battery(ies)," or "Used Battery(ies)."

47. EPA identified four full pallets of universal waste batteries at the Dickinson facility that were not labeled as universal waste. Therefore, Respondent violated 30 Texas Admin. Code § 335.261(a), [40 C.F.R. § 273.14(a)].

#### **Accumulation Time Limits for Universal Waste**

48. Pursuant to 30 Texas Admin. Code § 335.261(a), [40 C.F.R. § 273.15(c)], a small

quantity handler of universal waste who accumulates universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

49. EPA identified four full pallets of universal waste batteries at the Dickinson facility that did not have an accumulation start date. Therefore, Respondent violated 30 Texas Admin. Code § 335.261(a), [40 C.F.R. § 273.15(c)].

#### **Failure to Make Rebuttable Presumption Determination**

50. Pursuant to 30 Tex. Admin. Code § 324.6, [40 C.F.R. § 279.44], a used oil transporter must determine whether the total halogen content of used oil being transported is above or below 1000 ppm. Records of information used to comply with 40 C.F.R. § 279.44 must be maintained for at least three (3) years.

51. Upon request by EPA representatives, Respondent was not able to provide records of analyses conducted or information used to comply with 40 C.F.R. § 279.44.

52. Respondent failed to make a rebuttable presumption violation of 30 Tex. Admin. Code § 324.6, [40 C.F.R. § 279.44].

### **VI. CONSENT AGREEMENT AND CIVIL PENALTY**

#### **General**

53. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2),

Respondent:

- a. admits the jurisdictional allegations set forth herein;
- b. neither admits nor denies the specific factual allegations stated herein;
- c. consents to the assessment of a civil penalty, as stated herein;

- e. consents to the issuance of any specified compliance or corrective action order;
- f. consents to any conditions specified herein;
- g. consents to any stated Permit Action;
- h. waives any right to contest the allegations set forth herein; and
- i. waives its rights to appeal the Final Order accompanying this CAFO.

54. By signing this CAFO, 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 this CAFO.

55. Respondent consents to the issuance of this CAFO and consents for the purposes of settlement to the payment of the civil penalty specified herein.

56. Respondent and EPA agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorneys' fees.

#### **Penalty Assessment and Collection**

57. Pursuant to the authority granted in Section 3008 of RCRA, 42 U.S.C. § 6928, and upon consideration of the entire record herein, including the above referenced Findings of Fact and Conclusions of Law, which are hereby adopted and made a part hereof, upon the seriousness of the alleged violations, and Respondent's good faith efforts to comply with the applicable regulations, it is ordered that Respondent be assessed a civil penalty of \$48,000.00 (the "EPA Penalty").

58. Respondent agrees to pay the EPA Penalty within thirty (30) days after the

Effective Date of this CAFO.

59. Respondent shall pay the EPA Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

60. When making a payment, Respondent shall:

a. Identify every payment with Respondent's name and the docket number of this Agreement, Docket No. RCRA-06-2025-0936.

b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve proof of such payment to the following person(s):

Fred Deppe  
U.S. EPA Region 6  
Deppe.fred@epa.gov

Region 6 Hearing Clerk  
U.S. EPA Region 6  
Vaughn.Lorena@epa.gov

and

U.S. Environmental Protection Agency  
Cincinnati Finance Center  
Via electronic mail to:  
CINWD\_AcctsReceivable@epa.gov

"Proof of payment" means, as applicable, a copy of the check, 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 EPA requirements, in the amount due.

61. 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 EPA Penalty per this CAFO, EPA is authorized to recover, in addition to the amount of the unpaid EPA Penalty, the following amounts.

a. **Interest.** Interest begins to accrue from the Filing Date. If the EPA Penalty is paid in full within thirty (30) days, interest accrued is waived. If the EPA Penalty is not paid in full within thirty (30) days, interest will continue to accrue until any unpaid portion of the EPA 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 standard 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 EPA's costs of processing and handling overdue debts. If Respondent fails to pay the EPA Penalty in accordance with this CAFO, 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 EPA 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 EPA Penalty, interest, penalties, and other charges, that remain delinquent more than ninety (90) days. Any such amounts will accrue from the Effective Date.

62. **Late Penalty Actions.** In addition to the amounts described in the prior

Paragraph, if Respondent fails to timely pay any portion of the EPA Penalty, interest, or other charges and penalties per this CAFO, EPA may take additional actions. Such actions 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 EPA or engaging in programs 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.

63. 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 EPA Penalty amount.

64. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this CAFO shall not be deductible for purposes of federal taxes.

### Conditions of Settlement

65. Pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), Respondent is hereby ordered to take the following actions, and within sixty (60) calendar days of the Effective Date of this CAFO, Respondent shall provide in writing the following:

a. Respondent shall certify that it has assessed all its solid waste streams at the Facilities to determine the accurate waste codes and has developed and implemented standard operating procedures ("SOPs") to ensure that Respondent is operating the Facilities in compliance with RCRA and the regulations promulgated thereunder, including, but not limited to, procedures for: (a) making hazardous waste determinations; (b) managing hazardous wastes; (c) reporting, transporting, and disposing of hazardous waste; (d) preparing its manifests; and (e) meeting the requirements of the land disposal requirements.

b. Respondent shall certify that it has accurately and adequately complied with its RCRA Section 3010 notification for the Facilities and the hazardous waste transportation company identified in Paragraph 27. Specifically, Respondent shall obtain an EPA Identification (EPA ID) number using the Subtitle C Site ID Form (EPA Form 8700-12) and to submit the completed form to the authorized state agency or EPA regional office for the Facilities and hazardous waste transportation company.

66. Respondent shall provide, with its certification, a copy of Respondent's SOPs as described above in 65a.

- a. Respondent shall certify the cost of implementation of injunctive relief.
- b. Respondent shall certify the environmental benefit (reduction of waste or

reduction in the toxicity of waste).

67. Respondent shall provide, with its certification, a copy of Respondent's Hazardous Waste Notifications for the Facilities and hazardous waste transportation company as described above in Paragraph 65b.

68. In all instances in which this CAFO requires written submission to EPA, the submittal made by Respondent shall be signed by an owner or officer of the Respondent and shall include the following certification:

"I certify under the penalty of law that this document and all its attachments were prepared by me or under my direct supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Copies of all documents required by this CAFO shall be sent electronically by email to:

Fred Deppe  
U.S. EPA Region 6  
Deppe.fred@epa.gov

#### **Additional Terms of Settlement**

69. The provisions of this CAFO shall apply to and be binding on Respondent, Respondent's officers, directors, partners, agents, employees, contractors, successors and assigns. Action or inaction of any persons, firms, contractors, employees, agents, or corporations acting under, through, or for Respondent shall not excuse any failure of Respondent to fully perform its obligations under this CAFO. Changes in ownership, real property interest, or transfer of personal assets shall not alter Respondent's obligations under

this CAFO. Any change in the legal status of the Respondent, or change in ownership, partnership, corporate or legal status relating to the Facility, will not in any way alter Respondent's obligations and responsibilities under this CAFO.

70. By signing this CAFO, Respondent acknowledges that this CAFO will be available to the public and agrees that this CAFO does not contain any confidential business information. See 40 C.F.R. Part 2, Subpart B (Confidentiality of Business Information).

71. By signing this CAFO, Respondent certifies that the information it has supplied concerning this matter was at the time of submission, and is, truthful, accurate, and complete for each submission, response, and statement. Respondent acknowledges that there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.

72. By signing this CAFO, Respondent certifies that it is presently in compliance with all requirements of RCRA and its implementing regulations.

73. By signing this CAFO, the undersigned representative of Respondent certifies that it is fully authorized to execute and enter into the terms and conditions of this CAFO and has the legal capacity to bind the party it represents to this CAFO.

74. Respondent and EPA agree to the use of electronic signatures for this matter. EPA and Respondent consent to service of this CAFO and final order by email at the following valid email addresses: roland.alexandrea@epa.gov (for EPA) and [david@accpwasteservices.com](mailto:david@accpwasteservices.com) (for Respondent).

75. Respondent specifically waives its right to seek reimbursement of its costs and attorney's fees under 5 U.S.C. § 504 and 40 C.F.R. Part 17.

76. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, 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 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." 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 EPA with sufficient information to enable it to fulfill these obligations, 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; Respondent shall email its completed Form W-9 to EPA's Cincinnati Finance Center at [chalifoux.jessica@epa.gov](mailto:chalifoux.jessica@epa.gov) within thirty (30) days after the Final Order ratifying this Agreement is filed, and EPA recommends encrypting IRS Form W-9 email correspondence; and

c. 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 thirty (30) days after the Effective Date, then Respondent, using the same email address identified in the preceding sub-paragraph, shall further:

i. Notify EPA's Cincinnati Finance Center of this fact, via email, within 30 days after the Effective Date of this CAFO; and

ii. Provide EPA's Cincinnati Finance Center with Respondent's TIN, via email, within five (5) days of Respondent's issuance and receipt of the TIN.

**VII. EFFECT OF CONSENT AGREEMENT AND RESERVATION OF RIGHTS**

77. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this CAFO resolves only Respondent's liability, under Sections 3005(a) and 3008(a) of RCRA, 42 U.S.C. §§ 6925(a) and 6928(a), for federal civil penalties for the violations and facts alleged in Sections IV and V above. Complainant reserves the right to take any enforcement action with respect to any other violations of RCRA or any other applicable law.

78. The terms, conditions and requirements of this CAFO may not be modified or amended except upon the written agreement of both parties, and approval of the Regional Judicial Officer.

79. Penalties paid pursuant to this CAFO shall not be deductible for purposes of Federal, State, and local taxes.

80. When Respondent believes that it has complied with all the requirements of this CAFO, including compliance with the Compliance Order and payment of the civil penalty, Respondent shall also certify this in writing and in accordance with the certification language set

forth in Section VI (Compliance Order).

81. Any violation of the included Final Order may result in a civil judicial action for an injunction or civil penalties as well as criminal sanctions. EPA may use any information submitted under this CAFO in an administrative, civil judicial, or criminal action.

82. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the Act and other federal, state, or local laws or statutes, 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, or a determination of, any issue related to any federal, state, or local permit. EPA does not, by its consent to the entry of this CAFO, warrant or aver in any manner that Respondent's compliance with any aspect of this CAFO will result in compliance with provisions of RCRA, 42 U.S.C. § 6901 *et seq.*, or with any other provisions of federal, state, or local laws, regulations, or permits.

83. Nothing herein shall be construed to limit the power of EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.

84. If and to the extent EPA finds, after signing this CAFO, that any information provided by Respondent was materially false or inaccurate at the time such information was provided to EPA, EPA reserves any and all of its legal and equitable rights.

#### VIII. EFFECTIVE DATE

85. Respondent and Complainant agree to the issuance of the included Final Order. Upon filing, EPA will transmit a copy of the filed CAFO to Respondent. This CAFO shall become effective after execution of the Final Order by the Regional Judicial Officer on the date of filing

with the Regional Hearing Clerk. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

The foregoing Consent Agreement In the Matter of ACCP Inc., Docket No. RCRA-06-2025-0936,  
is Hereby Stipulated, Agreed, and Approved for Entry.

**FOR RESPONDENT:**

**ACCP INC.**

Date: 4/29/25

David Armstrong  
Signature

DAVID ARMSTRONG  
Print Name

President  
Title

**FOR COMPLAINANT:**

**U.S. ENVIRONMENTAL PROTECTION AGENCY**

Date: May 1, 2025

Cheryl T. Seager  
Digitally signed by  
CHERYL SEAGER  
Date: 2025.05.01  
12:33:26 -05'00'  
Cheryl T. Seager  
Director  
Enforcement and  
Compliance Assurance Division  
U.S. EPA, Region 6

**FINAL ORDER**

Pursuant to Sections 3008(a) of RCRA, 42 U.S.C. § 6928(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22, the foregoing Consent Agreement resolving this matter is hereby ratified and incorporated by reference into this Final Order.

ACCP Inc. is ORDERED to comply with all of the terms of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(b), 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.

This Final Order shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order shall resolve only those causes of action alleged herein. Nothing in this Final Order shall be construed to waive, extinguish or otherwise affect Respondent's (or its officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action.

IT IS SO ORDERED.

Dated \_\_\_\_\_

Rucki,  
Thomas

Digitally signed by Rucki,  
Thomas  
Date: 2025.05.05  
11:17:49 -04'00'

Thomas Rucki  
Regional Judicial Officer, Region 6

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing Consent Agreement and Final Order was filed with me, the Regional Hearing Clerk, U.S. EPA - Region 6, 1201 Elm Street, Suite 500, Dallas, Texas 75270-2102, and that I sent a true and correct copy on this day in the following manner to the email addresses:

**Copy via Email to Complainant:**

Roland.alexandrea@epa.gov

Deppe.Fred@epa.gov

**Copy via Email to Respondent:**

david@accpwasteservices.com

David Armstrong  
ACCP Inc.  
4034 N Barnett Way  
Missouri City, Texas

**LORENA  
VAUGHN**

Digitally signed by  
LORENA VAUGHN  
Date: 2025.05.05  
13:18:22 -05'00'

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Regional Hearing Clerk  
U.S. EPA, Region 6