

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

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 REGIONAL OFFICE OF EPA
 PHILADELPHIA, PA

IN THE MATTER OF:

)	Docket No. RCRA-03-2011-0241
TE Connectivity, Inc.)	
209 Shellyland Road	)	CONSENT AGREEMENT
Manheim, PA 17545	)	Proceeding under Sections 3008(a) and
	)	(g) of the Resource Conservation and
	)	Recovery Act, as amended,
RESPONDENT	)	42 U.S.C. § 6928(a) and (g).
)	

I. PRELIMINARY STATEMENT

1. This Consent Agreement (“CA”) is entered into by the Director of the Land and Chemicals Division, United States Environmental Protection Agency, Region III (“Complainant” or “EPA”), and TE Connectivity, Inc. (“TE” or “Respondent”), pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/ Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R. Part 22. Pursuant to § 22.13(b) of the Consolidated Rules of Practice, this CA and the attached Final Order (“FO”, hereinafter jointly referred to as the “CA/FO”) both commence and conclude the above-captioned administrative proceeding against Respondent, brought under Section 3008(a) and (g) of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6928(a) and (g), for alleged violations of RCRA at Respondent’s facility at 209 Shellyland Road, in Manheim, PA 17545 (the “Facility”).
2. The Pennsylvania Hazardous Waste Management Regulations (“PaHWMR”), 25 Pa. Code, Chapters 260a - 270a, were authorized by EPA on January 30, 1986 and reauthorized by EPA, effective November 27, 2000 (65 Fed. Reg. 57,734 (September 26, 2000)), effective March 22, 2004 (69 Fed. Reg. 2674 (January 20, 2004)) and effective June 29, 2009 (74 Fed. Reg. 19,453 (April 29, 2009)). The provisions of the authorized PaHWR, through such authorization, have become requirements of RCRA Subtitle C and are, accordingly, enforceable by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).
3. The factual allegations and legal conclusions in this CA are based on provisions of the PaHWMR in effect at the time of the violations alleged herein. The PaHWMR incorporate, with certain exceptions, federal hazardous waste management regulations that were in effect as of May 1, 1999 (and as of July 6, 1999 for certain regulations regarding Universal Waste) for the November 27, 2000 PaHWMR authorization, June 28,

2001 for the March 22, 2004 PaHWR authorization, and October 12, 2005 for the April 29, 2009 PaHWMR authorization. *See* 25 Pa. Code § 260a. 3(e).

4. On July 6, 2010 EPA sent a letter to the Commonwealth of Pennsylvania, through the Pennsylvania Department of Environmental Protection, giving Pennsylvania prior notice of the initiation of this action in accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).
5. This CA is entered into by Complainant and Respondent to address the violations alleged in the Allegations of Fact, as set forth below.
6. For the purposes of this proceeding, Respondent admits the jurisdictional allegations of this CA.
7. For the purposes of this proceeding only, Respondent neither admits nor denies the Allegations of Fact contained in this CA, except as provided in Paragraph 6, above.
8. For the purposes of this proceeding only, Respondent neither admits nor denies the Conclusions of Law contained in this CA, except as provided in Paragraph 6, above.
9. For the purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations herein or to appeal the FO attached hereto.
10. The settlement agreed to by the parties in this CA reflects the desire of the parties to resolve this matter without litigation.
11. Respondent consents to the issuance of this CA and to the attached FO and agrees to comply with their terms. Respondent agrees not to contest Complainant's jurisdiction with respect to the execution of this CA, the issuance of the attached FO, or the enforcement thereof.
12. Each party shall bear its own costs and attorney's fees in connection with this proceeding.

II. ALLEGATIONS OF FACT AND CONCLUSIONS OF LAW

13. This section represents the Allegations of Fact and Conclusions of Law made by Complainant in this matter. As set forth in Paragraphs 7 and 8, above, Respondent neither admits nor denies these Allegations of Fact and Conclusions of Law, but agrees to this settlement to avoid further litigation, as set forth in Paragraph 10, above.
14. Respondent is, and was at the time of the violations alleged herein, a "person" as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and as defined in 25 Pa. Code § 260a.10.

15. Respondent is, and was at the time of the violations alleged herein, the “owner” and “operator” of a “facility” located at 209 Shellyland Road, in Manheim, PA 17545 (the “Facility”), as those terms are defined in 40 C.F.R. § 260.10, as incorporated by reference in 25 Pa. Code § 260a.1, or in 25 Pa. Code § 260a.10.
16. On April 13, 2010, representatives from EPA conducted an inspection at the Facility.
17. At the time of the inspection, and at all times relevant to the violations alleged in this CA, Respondent was a “generator,” and was engaged in the “storage” of materials described herein that are “solid wastes” and “hazardous wastes” in “containers” and “tanks” at the Facility, as those terms are defined in 40 C.F.R. § 260.10, as incorporated by reference into 25 Pa. Code § 260a.1 or as defined in 25 Pa. Code § 260a.10.

COUNT I

(Operating a Treatment, Storage, or Disposal Facility Without a Permit or Interim Status)

18. The allegations of Paragraphs 1 through 17 of this Consent Agreement are incorporated herein by reference.
19. Pursuant to Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and 40 C.F.R. § 270.1(b), as incorporated by reference into 25 Pa. Code § 270a.1, no person may own or operate a facility for the treatment, storage, or disposal of hazardous waste unless such person has first obtained a permit for the facility or qualifies for interim status for such facility.
20. Respondent has never been issued a permit, pursuant to Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), or 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. Part 270, for the storage of hazardous waste at the Facility, and did not have interim status pursuant to Section 3005(e) of RCRA, 42 U.S.C. § 6925(e), or 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.70, at any time.
21. A generator of hazardous waste who accumulates hazardous waste in containers on-site for less than 90 days is exempt from the requirement to obtain a permit for such accumulation, pursuant to 40 C.F.R. § 262.34(a), as incorporated by reference into 25 Pa. Code § 262a.10, so long as the hazardous waste is stored in accordance with a number of provisions set forth in that section, including, *inter alia*:
 - a. 40 C.F.R. § 262.34(a)(2), which provides that the date upon which each period of accumulation of hazardous waste begins must be clearly marked and visible for inspection on each container;
 - b. 40 C.F.R. § 262.34(a)(3), which provides that while being accumulated onsite, each container holding hazardous waste must be clearly labeled or marked with the words “Hazardous Waste”;

- c. 40 C.F.R. § 265.16(c), which provides that facility personnel must successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with hazardous waste management regulations. Moreover, personnel must take part in an annual review of the required initial training;
 - d. 40 C.F.R. § 265.195, which provides that if placing hazardous waste into tanks, the owner or operator of the tanks holding hazardous waste must also document the inspection of, at least once each operating day, data gathered from monitoring and leak detection equipment to ensure that the tank system is being operated according to its design, as well as the inspection of overfill/spill control equipment, above-ground portions of the tank system to detect corrosion or releases of waste, and the construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment system;
 - e. 40 C.F.R. § 265.191, which provides that if placing hazardous waste into tanks, the owner or operator of the tanks must comply with the requirements of 40 C.F.R. Part 265, including obtaining and keeping on file at the facility a written assessment reviewed and certified by a qualified Professional Engineer that attests to the tanks' integrity; and
 - f. 40 C.F.R. § 265.193, which provides that the owner or operator of tanks holding hazardous waste must also provide secondary containment for such tanks.
22. On April 13, 2010, at the time of the Inspection, Respondent was not in compliance with all of the conditions for the temporary accumulation of hazardous waste by a generator pursuant to 40 C.F.R. § 262.34(a), as incorporated by reference into 25 Pa. Code § 262a.10, described in Paragraph 21, above, and therefore did not qualify for the exemption from the permitting/interim status requirements provided by such sections. Specifically, Respondent failed to qualify for the exemption in 40 C.F.R. § 262.34(a) in the following ways:
- a. By failing to clearly mark each container of hazardous waste with the date upon which each period of accumulation began, specifically a 55-gallon container of hazardous waste in the Chemical Room, Respondent failed to satisfy the exemption condition set forth in 40 C.F.R. § 262.34(a)(2);
 - b. By failing to label each container of hazardous waste with the word "Hazardous Waste," specifically, a 55-gallon container of hazardous waste in the Chemical Room, Respondent failed to satisfy the exemption condition set forth in 40 C.F.R. § 262.34(a)(3);

- c. By failing to fully develop and implement a hazardous waste training program, as discussed further in Count IV, Respondent failed to satisfy the exemption condition set forth in 40 C.F.R. § 265.16(c), incorporated by reference into 40 C.F.R. § 262.34(a)(4);
 - d. By failing to inspect, each operating day, data gathered from monitoring and leak detection equipment for tank systems, as discussed further in Count V, Respondent failed to satisfy the exemption condition set forth in 40 C.F.R. § 265.195, incorporated by reference into 40 C.F.R. § 262.34(a)(1)(ii);
 - e. By failing to obtain and keep on file at the facility a written assessment reviewed and certified by a qualified Professional Engineer that attests to the tanks' integrity, as discussed further in Count VI; Respondent failed to satisfy the exemption condition set forth in 40 C.F.R. § 265.191, incorporated by reference into 40 C.F.R. § 262.34(a)(1)(ii); and
 - f. By failing to provide secondary containment for a small hazardous waste tank that also served as a hazardous waste pump, as discussed further in Count VII, Respondent failed to satisfy the exemption condition set forth in 40 C.F.R. § 265.193, incorporated by reference into 40 C.F.R. § 262.34(a)(1)(ii).
23. The Facility was, at all times relevant to the violations alleged in this CA, a hazardous waste treatment, storage or disposal "facility," as the term is defined by 25 Pa. Code § 260a.10, with respect to the activities and units described herein.
24. Respondent was required by 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), to obtain a permit for the Facility.
25. Respondent stored hazardous waste at the Facility without a permit, interim status or valid exemption, in violation of 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a).

COUNT II
(Failure to Maintain Adequate Aisle Spacing)

26. The allegations of Paragraphs 1 through 25 of this Consent Agreement are incorporated herein by reference.
27. 25 Pa. Code § 264a.173(3) requires that containers of nonreactive or nonignitable hazardous waste be stored such that the container height, width and depth of a group of containers provides a configuration and aisle spacing which insures safe management and access for purposes of inspection, containment, and remedial action with emergency vehicles.

28. At the time of the April 13, 2010 Inspection, containers of hazardous and non-hazardous waste were tightly packed and intermingled at least four containers wide and four containers deep in the Chemical Room, such that there was not access for the purposes of inspection, containment, and remedial action with emergency vehicles, as required by 25 Pa. Code § 264a.173(3).
29. On April 13, 2010, the Facility's failure to maintain adequate aisle spacing between these containers was a violation of 25 Pa. Code § 264a.173(3).

**COUNT III
(Failure to Make a Waste Determination)**

30. The allegations of Paragraphs 1 through 29 of this Consent Agreement are incorporated herein by reference.
31. 25 Pa. Code § 262.10 incorporates 40 C.F.R. § 262.11, which requires any person who generates a solid waste to determine if that waste is a hazardous waste.
32. At the time of the April 13, 2010 Inspection, approximately 40 aerosol cans were stored in a flammable cabinet, and additional aerosol cans were stored in the Maintenance shop. These aerosol cans were "solid waste," but the Facility failed to determine whether such solid waste was a hazardous waste.
33. The Facility failed to make a waste determination for the aerosol can solid waste, in violation of 25 Pa. Code § 260.10, which incorporates by reference 40 C.F.R. § 262.11.

**COUNT IVa
(Failure to Develop and Implement a Hazardous Waste Training Program in 2006)**

34. The allegations of Paragraphs 1 through 33 of this Consent Agreement are incorporated herein by reference.
35. 25 Pa. Code § 264a.1 incorporates 40 C.F.R. § 264.16(a), which requires that facility personnel must successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with hazardous waste management regulations. Moreover, pursuant to 40 C.F.R. § 264.16(c), also incorporated into 25 Pa. Code § 264a.1, personnel must take part in an annual review of the required initial training.
36. The Facility failed to provide initial and annual review training in calendar year 2006 to the facility personnel whose positions related to hazardous waste management.

37. The Facility's failure to provide facility personnel with the required hazardous waste management training in 2006 was a violation of 25 Pa. Code 264a.1.

COUNT IVb

(Failure to Develop and Implement a Hazardous Waste Training Program in 2007)

38. The allegations of Paragraphs 1 through 37 of this Consent Agreement are incorporated herein by reference.

39. The Facility failed to provide initial and annual review training in calendar year 2007 to the facility personnel whose positions related to hazardous waste management.

40. The Facility's failure to provide facility personnel with the required hazardous waste management training in 2007 was a violation of 25 Pa. Code 264a.1.

COUNT IVc

(Failure to Develop and Implement a Hazardous Waste Training Program in 2008)

41. The allegations of Paragraphs 1 through 40 of this Consent Agreement are incorporated herein by reference.

42. The Facility failed to provide initial and annual review training in calendar year 2008 to the facility personnel whose positions related to hazardous waste management.

43. The Facility's failure to provide facility personnel with the required hazardous waste management training in 2008 was a violation of 25 Pa. Code 264a.1.

COUNT IVd

(Failure to Develop and Implement a Hazardous Waste Training Program in 2009)

44. The allegations of Paragraphs 1 through 43 of this Consent Agreement are incorporated herein by reference.

45. The Facility failed to provide initial and annual review training in calendar year 2009 to the facility personnel whose positions related to hazardous waste management.

46. The Facility's failure to provide facility personnel with the required hazardous waste management training in 2009 was a violation of 25 Pa. Code 264a.1.

COUNT V

Failure to Document Daily Tank Inspections in the Operating Record

47. The allegations of Paragraphs 1 through 46 of this Consent Agreement are incorporated herein by reference.
48. 25 Pa. Code § 264a.195 incorporates 40 C.F.R. § 264.195, which requires the owner or operator of a hazardous waste tank to inspect, at least once each operating day, data gathered from monitoring and leak detection equipment to ensure that the tank system is being operated according to its design, and, with exceptions not relevant to this matter, to inspect above-ground portions of the tank system to detect corrosion or releases of waste, and the construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment system to detect erosion or signs of releases of hazardous waste. The owner or operator of the tank is also required to document these daily inspections.
49. During the April 13, 2010 Inspection, the Inspectors observed two tanks in which hazardous wastes were stored, Tank 010A and a small tank situated on the floor next to Tank 010A.
50. These tanks had been at the facility storing hazardous waste for at least five years prior to the day of the Inspection, or from at least April 13, 2006 through April 13, 2011.
51. During this period of time, the Facility did not document daily inspections of these two tanks and instead documented only monthly inspections.
52. The Facility's failure to document the required daily inspections of hazardous waste tanks each operating day from April 13, 2006 through April 13, 2011 was in violation of 25 Pa. Code § 264a.195.

COUNT VI

Failure to Provide Written Assessments for an Existing Tank System

53. The allegations of Paragraphs 1 through 52 of this Consent Agreement are incorporated herein by reference.
54. 25 Pa. Code § 264a.191 incorporates 40 C.F.R. § 264.191, which requires that the owner or operator of an existing tank system which does not have secondary containment meeting the requirements of 40 C.F.R. § 264.193 obtain and keep on file at the facility a written assessment reviewed and certified by a qualified Professional Engineer that attests to the tank system's integrity.
55. During the April 13, 2010 Inspection, the Facility did not have a written assessment for the small tank on the floor next to Tank 010A. This small tank is an "existing tank" as

that term is defined at 25 Pa. Code § 2601.10, incorporating 40 C.F.R. § 260.10, and was not protected by secondary containment.

56. The Facility's failure to obtain and keep on file a written assessment for the small tank was in violation of 25 Pa. Code § 264a.191.

COUNT VII

Failure to Provide Secondary Containment for an Existing Tank System

57. The allegations of Paragraphs 1 through 56 of this Consent Agreement are incorporated herein by reference.
58. 25 Pa. Code § 264a.193 incorporates 40 C.F.R. § 264.193, which requires, with exceptions not relevant to this matter, secondary containment systems for all new and existing tank systems.
59. During the April 13, 2010 Inspection, there was no secondary containment system for the small tank on the floor adjacent to Tank 010A, which was storing hazardous waste before pumping the waste into Tank 010A, which had secondary containment.
60. The Facility's failure to provide secondary containment for this tank was in violation of 25 Pa. Code § 264a.193.

III. CIVIL PENALTY

61. In settlement of EPA's claims for civil monetary penalties assessable for the violations alleged in this CA, Respondent consents to the assessment of a civil penalty in the amount of **SIXTY-FIVE THOUSAND DOLLARS (\$65,000)**, which Respondent agrees to pay in accordance with the terms set forth below. Such civil penalty amount shall become due and payable immediately upon Respondent's receipt of a true and correct copy of this CA/FO, fully executed by the parties, signed by the Regional Judicial Officer, and filed with the Regional Hearing Clerk. In order to avoid the assessment of interest in connection with such civil penalty as described in this CA/FO, Respondent must pay the civil penalty no later than thirty (30) calendar days after the date on which a copy of this CA/FO is mailed or hand-delivered to Respondent.
62. Pursuant to 26 U.S.C. § 162(f), the civil penalty agreed to herein is not tax-deductible.
63. The aforesaid settlement amount was based upon Complainant's consideration of a number of factors, including, but not limited to, the statutory factors of the seriousness of the violations and good faith efforts of the Respondent to comply, as provided for in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3).

64. Payment of the civil penalty amount set forth in paragraph 61, above, shall be made by cashier's check, certified check, electronic wire transfer, or online via credit or debit card in the following manner:

- (a) All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action, *i.e.*, RCRA-03-2011-0241;
- (b) All checks shall be made payable to **United States Treasury**;
- (c) All payments made by check and sent by regular mail shall be addressed to:

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

Contact: Craig Steffen, 513-487-2091 or Eric Volck 513-487-2105

- (d) All payments made by check and sent by overnight delivery service shall be addressed for delivery to:

U.S. Bank
Government Lockbox 979077
U.S. EPA, Fines & Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

Contact: 314-418-1028

- (e) All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York
ABA = 021030004
Account No. = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read:
D 680107027 Environmental Protection Agency

- (f) All electronic payments made through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX / Cashlink ACH Receiver
ABA = 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 - Checking

Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737

Contact: John Schmid 202-874-7026 or REX 1-866-234-5681

- (g) All on-line payments with a debit or credit card:

WWW.PAY.GOV/PAYGOV

Enter sfo 1.1 in the search field. Open and complete the form.

65. Additional payment guidance is available at:

http://www.epa.gov/ocfo/finservices/payment_instructions.htm

66. A copy of Respondent's check or a copy of Respondent's electronic fund transfer shall be sent simultaneously to:

Jeffrey Nast
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency
Region III (Mail Code 3RC30)
1650 Arch Street
Philadelphia, PA 19103-2029

and

Lydia Guy
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region III (Mail Code 3RC00)
1650 Arch Street
Philadelphia, PA 19103-2029

67. 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 or to comply with the conditions in this CA/FO shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.
68. Interest on the civil penalty assessed in this CA/FO will begin to accrue on the date that a true and correct copy of this signed CA/FO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty 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).
69. The costs of the Agency'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 - Cash 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.
70. A late payment penalty of six percent (6%) 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). The late payment penalty on any portion of the civil penalty that remains delinquent for more than ninety days shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

IV. COMPLIANCE TASKS

71. Pursuant to the authority of Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), Respondent will perform the following compliance tasks immediately upon the effective date of the Final Order accompanying this Consent Agreement, except as otherwise expressly provided:
- a. Manage hazardous waste at the Facility in accordance with either (i) a permit or interim status obtained pursuant to RCRA Section 3005, 42 U.S.C. § 6925, and 25 Pa. Code § 270a., (ii) in accordance with the applicable generator accumulation requirements of 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34, or (iii) in accordance with another valid exception from the requirement to have a permit or interim status as applicable.
 - b. Store hazardous waste containers such that the container height, width and depth of a group of containers provides a configuration and aisle spacing which insures

safe management and access for purposes of inspection, containment, and remedial action with emergency vehicles, in accordance with 25 Pa. Code § 264a.173(3).

- c. Determine whether used aerosol cans, and all other solid waste generated at the facility constitute “hazardous waste” and, if so, manage such solid waste in accordance with the PaHWMR, in accordance with 25 Pa. Code § 262.10, incorporating 40 C.F.R. § 262.11.
 - d. Develop, implement, and document a hazardous waste training program for facility personnel and implement and document annual review of the required initial training, in accordance with 25 Pa. Code § 264a.1, incorporating 40 C.F.R. § 264.16(a) and (c).
 - e. If Tank 010A and the small tank on the floor next to it remain part of the Facility’s waste management process, inspect, at least once each operating day, data gathered from monitoring and leak detection equipment to ensure that the tank system is being operated according to its design, and inspect above-ground portions of the tank system to detect corrosion or releases of waste, and the construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment system to detect erosion or signs of releases of hazardous waste, in accordance with 25 Pa. Code § 264a.195, incorporating 40 C.F.R. § 264.195.
 - f. If the small tank on the floor next to Tank 010A remains part of the Facility’s waste management process, obtain and keep on file at the facility a written assessment reviewed and certified by a qualified Professional Engineer that attests to the tank system’s integrity, in accordance with 25 Pa. Code § 264a.191, incorporating 40 C.F.R. § 264.191.
 - g. If the small tank on the floor next to Tank 010A remains part of the Facility’s waste management process, provide the tank with secondary containment, in accordance with Pa. Code § 264a.193, incorporating 40 C.F.R. § 264.193.
 - h. If the Facility wishes to remove either Tank 010A, the small tank on the floor next to it, or both tanks from the Facility’s waste management process, then the Facility shall, for each tank, submit a closure plan to the Commonwealth of Pennsylvania in accordance with the requirements of 25 Pa. Code § 265a.1, which incorporates by reference 40 C.F.R. §§ 265.110-115 and .197, and 25 Pa. Code § 265a.166, and Respondent shall comply with the terms of the plan once approved.
72. Within ninety (90) days after the effective date of this Consent Agreement and Final Order, submit to EPA a certification in the form set forth in Paragraph 74, below, by a

responsible corporate officer, certifying whether or not the requirements of Paragraph 71 of this CA have been completed by Respondent.

73. Information or documents required to be submitted to EPA under this Compliance Order shall be sent to:

Jan Szaro (3HS12)
Environmental Engineer
Site Assessment and Non-NPL Federal Facilities Branch
United States Environmental Protection Agency - Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029;

and

Jeffrey Nast (3RC30)
Senior Assistant Regional Counsel
United States Environmental Protection Agency - Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029.

74. Any notice, report, certification, data presentation, or other document submitted by Respondent pursuant to this Compliance Order which discusses, describes, demonstrates, supports any finding or makes any representation concerning Respondent's compliance or non-compliance with any requirements of this Compliance Order shall be certified by a responsible corporate officer of the Respondent. A responsible corporate officer means: (1) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or (2) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

The certification of the responsible corporate officer required above shall be in the following form:

I certify that the information contained in or accompanying this [type of submission] is true, accurate and complete. As to [the/those] identified portions of this [type of submission] for which I cannot personally verify [its/their] accuracy, I certify under penalty of law that this [type of submission] and all attachments were prepared in accordance with a system designed to assure the qualified personnel properly gather and evaluate 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 fines and imprisonment for knowing violations.

Signature: _____
Name: _____
Title: _____

V. OTHER APPLICABLE LAWS

75. Nothing in this CA/FO shall relieve Respondent of any duties or obligations otherwise imposed upon it by applicable Federal, State or local laws or regulations.

VI. RESERVATION OF RIGHTS

76. This CA/FO resolves only EPA's claims for civil penalties for the specific violations of RCRA Subtitle C which are alleged herein. Nothing herein shall be construed to limit the authority of the Complainant to undertake action against any person, including Respondent, in response to any condition which Complainant determines may present an imminent and substantial endangerment to the public health, welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in § 22.18(c) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CA/FO.

VII. FULL AND FINAL SATISFACTION

77. This settlement shall constitute full and final satisfaction of Complainant's claims for civil penalties for the specific violations set forth in the CA/FO.

VIII. PARTIES BOUND

78. This CA/FO shall apply to and be binding upon EPA, Respondent, and Respondent's officers, employees, agents, successors and assigns. By his/her signature below, the person signing this Consent Agreement on behalf of Respondent is acknowledging that

he or she is fully authorized to enter into this Agreement on behalf of Respondent and to bind Respondent to the terms and conditions of this CA/FO.

IX. EFFECTIVE DATE

79. The effective date of this CA/FO is the date on which the Final Order, signed by the Regional Administrator of U.S. EPA Region III or his designee, is filed with the Regional Hearing Clerk.

X. ENTIRE AGREEMENT

80. This CA/FO constitutes the entire agreement and understanding of the parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this CA/FO.

For the Respondent:

TE Connectivity, Inc.

Date: 09-02-11

By: TONY TESSI TORC
Tony Tessitore DIRECTOR MANUFACTURING
Name
Title

For the Complainant:

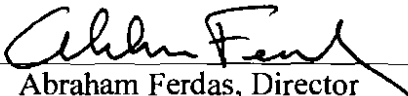
U.S. Environmental Protection Agency, Region III

Date: 9/14/11

By: Jessica O'Neill
Jessica O'Neill
Assistant Regional Counsel

The Land and Chemicals Division, United States Environmental Protection Agency - Region III, recommends that the Regional Administrator of the U.S. EPA Region III or his designee issue the accompanying Final Order.

Date: 9/18/11

By: 
Abraham Ferdas, Director
Land and Chemicals Division

**THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, PA 19103-2029**

IN THE MATTER OF:

	)	Docket No. RCRA-03-2011-0241
TE Connectivity, Inc.)	
209 Shellyland Road	)	FINAL ORDER
Manheim, PA 17545	)	Proceeding under Sections 3008(a) and
	)	(g) of the Resource Conservation and
	)	Recovery Act, as amended,
RESPONDENT	)	42 U.S.C. § 6928(a) and (g).
)	


FINAL ORDER

Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency - Region III, and Respondent, TE Connectivity, Inc., have executed a document entitled "Consent Agreement" which I 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 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are incorporated herein by reference.

NOW, THEREFORE, pursuant to Section 3008(a) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6928(a), and based upon the representations of the parties set forth in the Consent Agreement that the civil penalty amount agreed to by the parties in settlement of the above-captioned matter is based upon a consideration of the factors set forth in RCRA Section 3008(a)(3), 42 U.S.C. § 6928(a)(3), IT IS HEREBY ORDERED THAT Respondent shall pay a civil penalty in the amount of **SIXTY-FIVE THOUSAND DOLLARS (\$65,000)**, as specified in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement, including but not limited to the performance of the Compliance Tasks.

The effective date of this Final Order and the accompanying Consent Agreement is the date on which the Final Order is filed with the Regional Hearing Clerk of U.S. EPA, Region III.

Date: 9/15/11

By: 
Renée Sarajian
Regional Judicial Officer

THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, PA 19103-2029

IN THE MATTER OF:

TE Connectivity, Inc.
209 Shellyland Road
Manheim, PA 17545

RESPONDENT

) Docket No. RCRA-03-2011-0241
)
) CERTIFICATE OF SERVICE
) Proceeding under Sections 3008(a) and
) (g) of the Resource Conservation and
) Recovery Act, *as amended*,
) 42 U.S.C. § 6928(a) and (g).


I certify that on the date noted below, I sent by Overnight Delivery Service, a copy of the Consent Agreement and Final Order, **In the Matter of: TE Connectivity, U.S. EPA Docket Number RCRA-03-2011-0241**, to the persons and addresses listed below.

Andrew S. Levine
Stradley Ronon Stevens & Young, LLP
Suite 2600
2005 Market Street
Philadelphia, PA 19103

Carl Schultz
TE Connectivity
209 Shellyland Road
Manheim, PA 17545

The original Consent Agreement and Final Order, plus one copy, were hand-delivered to the Regional Hearing Clerk, U.S. EPA Region III.

9/15/11
DATE


Jessica O'Neill
Assistant Regional Counsel
Office of Regional Counsel
EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029