

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 REGION III
 1600 JFK Blvd.
 Philadelphia, Pennsylvania 19103**

In the Matter of:

Harrisburg Area
 Community College.
 3300 N. Cameron St.
 Harrisburg, PA 17110

Respondent.

Harrisburg Area
 Community College
 3300 N. Cameron St.
 Harrisburg, PA 17110

Facility.

:
 :
 : U.S. EPA Docket No. RCRA-03-2023-0012
 :
 : Proceeding under Section 3008(a) and (g) of the
 : ResourceConservation and Recovery Act, as
 : amended, 42 U.S.C. § 6928(a) and (g)
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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 Harrisburg Area Community College (“Respondent” or “HACC”) (collectively the “Parties”), pursuant to Section 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 Rules of Practice”), 40 Code of Federal Regulations (“C.F.R.”) Part 22. RCRA Section 3008(a)(1), 42 U.S.C. Section 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 has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.
4. EPA has given the Commonwealth of Pennsylvania, through the Pennsylvania Department of Environmental Protection (“PADEP”), 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. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(4).

GENERAL PROVISIONS

6. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order.
7. Except as provided in the Paragraph above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.
8. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of the Consent Agreement and Final Order.
9. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and Final Order and waives its right to appeal the accompanying Final Order.
10. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.
11. Respondent shall bear its own costs and attorney’s fees in connection with this proceeding.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

12. 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.

13. The Commonwealth of Pennsylvania has received federal authorization to administer a Hazardous Waste Management Program (the “Pennsylvania Hazardous Waste Management Program”) in lieu of the federal hazardous waste management program under RCRA Subtitle C, 42 U.S.C. §§6921 – 6939g. Effective January 30, 1986, EPA authorized the Pennsylvania Hazardous Management Regulations (“PaHWMR”) pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), and 40 C.F.R. Part 271, Subpart A. Thereby the authorized regulations of the PaHWMR became requirements of RCRA Subtitle C and are enforceable by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a). *See 51 Fed. Reg.* 1791 (January 15, 1986), *65 Fed. Reg.* 57734 (September 26, 2000), *69 Fed. Reg.* 2674 (January 20, 2004) and *74 Fed. Reg.* 19453 (April 29, 2009).
14. As part of the last PaHWMR revisions authorized by EPA, EPA authorized PaHWMR regulations that incorporate by reference, with certain exceptions, specific provisions of Title 40 of the C.F.R. that were in effect as of October 12, 2005, including, among other things, incorporation of 40 C.F.R. § 262.34 (Accumulation Time, which lists the requirements for the generator permit exemption). The C.F.R. citations used herein, when referring to the Federal regulations incorporated by the PaHWMR, are to the 2005 Federal regulations. Thus, 40 C.F.R. § 262.34 (2005) is the currently federally enforceable RCRA regulation applicable in Pennsylvania. (On November 28, 2016, EPA re-codified the generator permit exemption, effective on May 30, 2017. The federal requirements previously found in 40 C.F.R. § 262.34 are now re-codified at 40 C.F.R. §§ 262.15 - 262.17.)
15. Respondent is, and was at the time of the violations alleged herein, a Pennsylvania corporation registered to do business in the Commonwealth of Pennsylvania.
16. 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 25 Pa. Code § 260a.10.
17. Respondent is, and at all times relevant to this Consent Agreement was, the “operator” of a “facility,” as the terms “facility” and “operator” are defined in 25 Pa. Code §§ 260a.1, and 260a.10.
18. The facility referred to in Paragraph 17, above, including all of its associated equipment and structures (hereinafter the “Facility” or “Harrisburg Campus”), operates community colleges across five campuses in central Pennsylvania. The Facility is located in Harrisburg at 3300 N. Cameron Street, Harrisburg, Pennsylvania, which is where HACC’s Law Enforcement Training Center which includes an indoor shooting range is located.
19. Pennsylvania assigned the Respondent RCRA Generator ID No. PAD003018843.
20. Respondent was at all times relevant to this Consent Agreement and Final Order, a “generator” of, and has engaged in the “storage” in “containers” at the Facility of materials described below that are “solid wastes” and “hazardous wastes”, as those terms are defined in 40 C.F.R. § 260.10, as incorporated by reference by 25 Pa. Code § 260a.1,

with the exception of the term “storage”, which is defined in 25 Pa. Code § 260a.10.

21. EPA conducted Offsite Compliance Monitoring via an Information Request Letter, issued on June 8, 2021 (“IRL”), to evaluate the Facility’s compliance with RCRA/PaHWMR. Following HACC’s July 22, 2021 response to the IRL, EPA requested additional information by email on August 11 and 23, 2021. HACC responded on September 20, 2021.
22. HACC operates community colleges across five campuses. At the Harrisburg Campus there are several sources of hazardous waste. HACC’s Law Enforcement Training Center includes an indoor shooting range. This shooting range creates dust containing lead particles that is filtered out of the air by two different types of filters. Additionally, laboratory operations at the Harrisburg Campus generate several hundred pounds of laboratory waste each year. The Facility historically identified as a Very Small Quantity Generator (“VSQG”). However, HACC qualifies as a Small Quantity Generator (“SQG”) based on the amount of hazardous waste generated at the facility, such as when it replaces its Tri-fold and Predator filters, due to the weight of the hazardous waste (D008) generated in one month. The Facility does not have a RCRA permit to treat store and/or dispose of hazardous waste.
23. The Facility generated greater than 100kg of hazardous waste in a calendar month in 2018 during the months of July, August, October, and November; in 2019 during the months of February April, May, June, and October; in 2020 during the months of February April, May, September, and November; and in 2021 during the months of January, March, May, June, and August, and as such was a SQG during those months.
24. From July 2018 through August 2021, the hazardous waste described in Paragraph 23, above, was in “storage” in containers at the Facility.

Count I
Operating Without Interim Status or a Permit

25. The preceding paragraphs are incorporated by reference.
26. 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), and Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), provides, in pertinent part, that a person may not own or operate a facility for the treatment, storage or disposal of hazardous waste unless such person has first obtained a permit for such facility or has qualified for interim status for the facility.
27. Respondent does not have a hazardous waste treatment or storage permit or interim status pursuant to 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), for the treatment or storage of hazardous waste at the Facility.
28. Generators who accumulate hazardous waste on-site for greater than the time periods provided in 40 C.F.R. 262.34 must comply with 25 Pa. Code § 270a.1 & 25 Pa. Code § 262a.10 [40 C.F.R. 270.1(b); 40 C.F.R. § 262.34 (the federal requirements previously found in 40 C.F.R. § 262.34 are now re- codified at 40 C.F.R. §§ 262.15 - 262.17)] to be

exempt from the permit requirement. In its pertinent part, 40 C.F.R § 262.34(a)(3) requires that generators label containers of hazardous waste with the words “Hazardous Waste.”

29. Based upon information provided by HACC, from June 2018 through July 2021 the Respondent, while generating hazardous waste greater than 100kg per month, failed to label containers of hazardous waste in storage at the Facility with the words “Hazardous Waste” as required by 25 Pa. Code § 262a.10. Because Respondent did not qualify for the permit exemptions, nor was in interim status during this time period it was in violation of 25 Pa. Code § 270a.1.
30. 25 Pa. Code § 270a.1 and 25 Pa. Code § 262a.10 require that small quantity generators of hazardous waste must comply with 40 C.F.R § 262.34(a)(1)(i) to be exempt from the hazardous waste permit requirement. 40 C.F.R § 262.34(a)(1)(i) incorporates by reference 40 C.F.R § 265.174, which requires weekly inspections of central hazardous waste accumulation areas.
31. Based upon information provided by HACC, from June 2018 through July 2021 the Respondent, while generating hazardous waste at greater than 100kg per month, failed to conduct weekly inspections of its hazardous waste accumulation area at the Facility and thus did not comply with the conditions for the permit exemption at 25 Pa. Code § 262.a.10. Because Respondent did not qualify for the permit exemptions, nor was it in interim status during this time period, it was in violation of 25 Pa. Code § 270a.1.

Count II

Failure to Inspect the Hazardous Waste Accumulation Area Weekly

32. The preceding paragraphs are incorporated by reference.
33. 25 Pa. Code § 264a.1 incorporates by reference the required standards in 40 C.F.R. § 264, with certain exceptions not relevant here. In its pertinent part, 40 C.F.R. § 264.174 describes the inspection requirements that all facilities storing hazardous waste must comply with in relevant part: At least weekly, the owner or operator must inspect areas where containers are stored. The owner or operator must look for leaking containers and for deterioration of containers and the containment system caused by corrosion or other factors.
34. Based on information provided by HACC, from June 2018 through July 2021, Respondent failed to conduct weekly inspections of the Hazardous Waste Accumulation Area in at the Facility in violation of 25 Pa. Code § 264a.1.

CIVIL PENALTY

35. 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 **FIFTY THREE THOUSAND NINE HUNDRED SEVENTY-EIGHT DOLLARS (\$53,978.00)**, which Respondent shall be liable to pay in accordance with the terms set forth below.

36. The civil penalty is based upon EPA’s consideration of a number of factors, including the penalty criteria (“statutory factors”) set forth in in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), which include 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 which reflects the statutory penalty factors set forth at Section 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.
37. 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.*, RCRA-03-2023-0012;
 - 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:

Jeffrey S. Nast
Senior Assistant Regional Counsel
U.S. EPA, Region III (3RC40)
nast.jeffrey@epa.gov

and

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

38. 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.
39. 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).
40. 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 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).
41. 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). If payment is not received within 30 calendar days of the effective date of this Consent Agreement, EPA will also 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.
42. 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).
43. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.
44. **The parties consent to service of the Final Order by e-mail at the following valid e-mail addresses: nast.jeffrey@epa.gov (for Complainant), and tlsandoe@hacc.edu (for Respondent).**

GENERAL SETTLEMENT CONDITIONS

45. 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.

46. 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

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

OTHER APPLICABLE LAWS

48. 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 RCRA, or any regulations promulgated thereunder.

RESERVATION OF RIGHTS

49. This Consent Agreement and Final Order resolves only EPA's claims for civil penalties for the specific violations 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

50. 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


51. 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

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

For Respondent: Harrisburg Area Community College.

Date: 11/28/2022

By: 

Timothy L. Sandoe, CFO
VP of Finance

For the Complainant:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement & 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 & Compliance
Assurance Division
U.S. EPA – Region III
Complainant

Attorney for Complainant:

Date: _____

By: _____

Jeffrey S. Nast
Sr. Assistant Regional Counsel
U.S. EPA – Region III

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

In the Matter of:	:	
	:	
Harrisburg Area	:	U.S. EPA Docket No. RCRA-03-2023-0012
Community College.	:	
3300 N. Cameron St.	:	Proceeding under Section 3008(a) and (g) of the
Harrisburg, PA 17110	:	Resource Conservation and Recovery Act, as
	:	amended, 42 U.S.C. § 6928(a) and (g)
Respondent.	:	
	:	
Harrisburg Area	:	
Community College.	:	
3300 N. Cameron St.	:	
Harrisburg, PA 17110	:	
	:	
Facility.	:	

FINAL ORDER

Complainant, the Director of the Enforcement & Compliance Assurance Division, U.S. Environmental Protection Agency, Region III, and Harrisburg Area Community College (“Respondent”), 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. §§ 22.13(b) and 22.18(b)(2) and (3). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated herein as if 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 1990 RCRA Civil Penalty Policy, as revised in June, 2003, and again on May 6, 2020, and the statutory factors set forth at Section 3008(a)(3) and (g) of RCRA, 42 U.S.C. § 6928(a)(3) and (g).

NOW, WHEREFORE, PURSUANT TO Section 3008(a) and (g) of the Resource Conservation and Recovery Act (“RCRA” or the “Act”), 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 **FIFTY-THREE THOUSAND NINE HUNDRED SEVENTY-EIGHT DOLLARS (\$53,978.00)**, in accordance with the payment provisions set forth in the Consent Agreement and in 40 C.F.R. § 22.31(c), 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 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 Officer
U.S. EPA, Region III

