



REGION 3
PHILADELPHIA, PA 19103

FILED
Jun 02, 2025
2:28 pm
**U.S. EPA REGION 3
HEARING CLERK**

In the Matter of:

**Thomas Jefferson University Hospital
111 S. 11th Street
Philadelphia, Pennsylvania 19107**

Respondent.

**111 S. 11th Street
Philadelphia, Pennsylvania 19107
RCRA Id. No. PAD980715510**

**900 Walnut Street
Philadelphia, Pennsylvania 19107
RCRA Id. No. PAD073744203**

**1020 Locust Street
Philadelphia, Pennsylvania 19107
RCRA Id. No. PAD980715577**

Facilities.

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: **DOCKET NO.: RCRA-03-2025-0060**
:
: **CONSENT AGREEMENT AND FINAL ORDER**
:
: **Proceeding under Section 3008(a) and (g) of the**
: **Resource Conservation 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 3 (“Complainant”) and Thomas Jefferson University Hospital (“Respondent”) (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”), 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 C.F.R. Part 22. Section 3008(a) of RCRA, 42 U.S.C. § 6928(a) 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 the authority to enter into agreements concerning administrative penalties to the Complainant. This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the “Consent Agreement and Final Order”) resolve Complainant’s civil penalty claims against Respondent under the Resource Conservation and Recovery Act (“RCRA” or the “Act”) for the violations alleged herein.

2. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

JURISDICTION

3. The U.S. Environmental Protection Agency (“EPA”) has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.
4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(4).
5. In accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), and by letter sent on October 6, 2023, EPA notified the Pennsylvania Department of Environmental Protection (“PADEP”) of EPA’s intent to commence this administrative action against Respondent in response to the violations of RCRA Subtitle C that are alleged herein.

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 Paragraph 6, 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 this 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. By signing this Consent Agreement, Respondent waives any rights or defenses 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 the Consent Agreement.
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. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), EPA has authorized Pennsylvania to administer a hazardous waste management program in lieu of the federal hazardous waste management program established under RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g. The provisions of the current authorized Pennsylvania Hazardous Waste Management Regulations ("PaHWR"), 25 Pa. Code Ch. 260a-266a, 266b, and 268a-270a, have thereby become requirements of RCRA Subtitle C and are enforceable by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a). EPA last authorized revisions to the Pennsylvania hazardous waste regulations on June 29, 2009, including incorporation by reference of the federal regulations which were in effect as of October 12, 2005. The Code of Federal Regulation citations used herein are to the 2005 Federal regulations, when referring to the Federal regulations incorporated by the Pennsylvania regulations.
14. Respondent owns and operates a facility located at 900 Walnut Street, Philadelphia, Pennsylvania (RCRA Id. No. PAD073744203) where Respondent generates hazardous

waste as a small quantity generator (the “Walnut Street Facility”). In addition, Respondent owns and operates a facility located at 1020 Locust Street, Philadelphia, Pennsylvania (RCRA Id. No. PAD980715577) and 111 S. Street, Philadelphia, Pennsylvania (RCRA Id. No. PAD980715510) where Respondent generates hazardous waste as a large quantity generator (the “Locust Street Facility”), collectively referred to hereinafter as the “Facilities.”

15. Complainant alleges that, at all times relevant to the allegations described in this Consent Agreement, Respondent was and continues to be a corporation organized under the laws of the Commonwealth of Pennsylvania and is therefore a “person,” as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and 25 Pa. Code § 260a.10. Respondent was, at all times relevant to the allegations in this Agreement, the “owner” and the “operator” of a “facility,” described in Paragraph 14, as the terms “owner” and “operator” are defined in 25 Pa. Code § 260a.1, which incorporates by reference 40 C.F.R. § 260.10, and the term “facility” is defined in 25 Pa. Code § 260a.10.
16. At all times relevant to the allegations described in this Agreement, Respondent “generated” “hazardous waste” at the Facility, as the terms “generate” and “hazardous waste” are defined in 25 Pa. Code § 260a.1, which incorporates by reference 40 C.F.R. § 260.10.
17. On March 8, 2023, EPA representatives conducted a Compliance Evaluation Inspection (“Inspection”) at the Facilities to determine compliance with the applicable hazardous waste regulations.
18. Based on the observations during the Inspection, Complainant alleges and finds that Respondent failed to comply with specific requirements of Subtitle C of RCRA, 42 U.S.C. § 6921-6939g, its implementing regulations, and the federally-authorized Pennsylvania hazardous waste management regulations, as enumerated below.

Count 1

Operating a hazardous waste storage facility without a permit, interim status, or valid exemption to the permitting requirement

19. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
20. Section 3005 of RCRA, 42 U.S.C. § 6925, and 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1, prohibit an owner or operator of a hazardous waste

storage facility from operating without a permit or valid exemption to the permitting requirement.

21. Respondent had attempted to meet the conditions of the generator permit exemption codified at 25 Pa. Code § 262a.1, which incorporates by reference 40 C.F.R. § 262.34.¹
22. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(d), states, in pertinent part, that a small quantity generator may accumulate hazardous waste on-site for 180 days or less without a permit or without having interim status, provided that: (1) the waste is placed in containers and the generator complies with the applicable requirements of subpart I in 40 C.F.R. Part 265; (2) the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container; (3) each container is labeled or marked clearly with the words, “Hazardous Waste”; and (4) the generator complies with the requirements for owners and operators in subpart C in 40 C.F.R. Part 265.
23. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a), states, in pertinent part, that a large quantity generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that: (1) the waste is placed in containers and the generator complies with the applicable requirements of subpart I in 40 C.F.R. Part 265; (2) the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container; (3) each container is labeled or marked clearly with the words, “Hazardous Waste”; and (4) the generator complies with the requirements for owners and operators in subparts C and D in 40 C.F.R. Part 265, and 40 C.F.R. § 265.16.
24. For the following reasons, Respondent failed to meet the following permit exemption conditions in 40 C.F.R. § 262.34 and was therefore accumulating hazardous waste on site in violation of 40 C.F.R. § 270.1(b), which 25 Pa. Code § 270a.1 incorporates by reference:
 - a. Accumulation of Hazardous Waste for Greater than 90 and 180 Days
 - i. From at least March 20, 2021 until March 17, 2023, Respondent stored a 5-gallon pail of pharmaceutical hazardous waste (D001) in the hazardous accumulation area in the Walnut Street Facility, Room 185A, for a total

¹ 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. PaHWR has not adopted by reference the new re-codified generator exemption found at 40 C.F.R. §§ 262.15 – 262.17.

accumulation time of 718 days, which is in excess of the 90 day and 180 day accumulation time limits allowed by 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a) and (d).

b. Failure to Properly Label Containers of Hazardous Waste

- i. 25 Pa. Code § 262.10a, which incorporates 40 C.F.R. § 262.34(a)(2) by reference, provides that a generator of hazardous waste must clearly mark the date upon which each period of accumulation begins on each container. On at least March 8, 2023, Respondent stored containers of hazardous waste in the hazardous waste accumulation area (“HWAA”) within Alumni Hall located at the 1020 Locust Street Facility, which were not labeled or marked clearly with the words, “Hazardous Waste.”

c. Failure to Keep a Container of Hazardous Waste Closed, Except When It Is Necessary to Add or Remove Waste

- i. 25 Pa. Code § 262.10a, which incorporates 40 C.F.R. § 262.34(a)(1)(i) by reference, and, by further reference, the Container Management requirements of 40 C.F.R. § 265.173 (a), provides that a container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.
- ii. On at least March 8, 2023, Respondent failed to maintain the following containers holding hazardous waste closed during storage at the Facilities:
 - a. In the hazardous waste accumulation area in the Walnut Street Facility, Room 185A, two containers labeled as “Hazardous Waste” were observed to have lids that were not secured/closed at the time of the Inspection; and
 - b. In the hazardous waste accumulation area in the Walnut Street Facility, Room 185A, two containers labeled as “Hazardous Waste” were observed to have lids that were not secured/closed at the time of the Inspection.
- iii. In addition, on March 8, 2023, Respondent failed to maintain the following containers holding hazardous waste closed during storage at the following locations:

- a. In the Histology Laboratory (Room P420) located in the Foerderer Pavillion Building (125 S. 11th Street Facility), the inspectors observed multiple open plastic 10-gallon containers of D001 and F003 hazardous waste;
 - b. In Room 2290 B of the Gibbon East Bldg. (111 S. 11th Street Facility), the inspectors observed two open plastic 10-gallon containers accumulating (D001 and F003) hazardous pharmacy waste.
- d. Failure to Maintain Records
- i. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(4) and 40 C.F.R. Part 265, specifically 40 C.F.R. § 265.16(d)(4), requires owners and operators of a hazardous waste storage facility to maintain records that document that facility personnel received annual hazardous waste training as required under 40 C.F.R. § 265.16(c).
 - ii. On at least March 8, 2023, Respondent did not have the hazardous waste training records for the employees listed as the primary and secondary emergency coordinators at the 1020 Locust Facility as required by Pa. Code § 262a.10.
25. At the time of the Inspection, Respondent violated 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1, by operating a hazardous waste storage facility without interim status or a permit to treat, store, and/or dispose of hazardous waste.
26. In failing to comply with Section 3005 of RCRA, 42 U.S.C. § 6925, and 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), Respondent is subject to the assessment of penalties under Section 3008 (a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g).

Count 2

Failure to keep containers of hazardous waste closed

27. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.

28. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.173(a), requires the owner or operator of a hazardous waste storage facility to maintain containers holding hazardous waste always closed during storage, except when it is necessary to add or remove waste.
29. On at least March 8, 2023, Respondent failed to maintain the following containers holding hazardous waste closed during storage at the Facilities:
 - i. In the hazardous waste accumulation area in the Walnut Street Facility, Room 185A, two containers labeled as “Hazardous Waste” were observed to have lids that were not secured/closed at the time of the Inspection; and
 - ii. In the hazardous waste accumulation area in the Walnut Street Facility, Room 185A, two containers labeled as “Hazardous Waste” were observed to have lids that were not secured/closed at the time of the Inspection.
30. In addition, on March 8, 2023, Respondent failed to maintain the following containers holding hazardous waste closed during storage at the following locations:
 - i. In the Histology Laboratory (Room P420) located in the Foerderer Pavillion Building (125 S. 11th Street), the inspectors observed multiple open plastic 10-gallon containers of D001 and F003 hazardous waste;
 - ii. In Room 2290 B of the Gibbon East Bldg. (111 S. 11th Street), the inspectors observed two open plastic 10-gallon containers accumulating (D001 and F003) hazardous pharmacy waste.
31. On at least March 8, 2023, Respondent violated 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.173(a), by failing to keep containers of hazardous waste closed during storage, except when necessary to add or remove waste at the Facilities.
32. In failing to comply with 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.173(a), Respondent is subject to the assessment of penalties under Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g).

Count 3

Failure to maintain records of hazardous waste training

33. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
34. Pa. Code § 2624.a.1, which incorporates by reference 40 C.F.R. § 264.16(d)(4), requires owners and operators of a hazardous waste storage facility to maintain records that document that facility personnel received annual hazardous waste training as required under 40 C.F.R. § 264.16(c).
35. On at least March 8, 2023, Respondent did not have the hazardous waste training records for the employees listed as the primary and secondary emergency coordinators at the 1020 Locust Facility as required by Pa. Code § 264.a.1, which incorporates by reference 40 C.F.R. § 264.16(d)(4).
36. In failing to comply with 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.16(d)(4), Respondent is subject to the assessment of penalties under Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g).

Count 4

Failure to maintain and operate a facility

37. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
38. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.31, requires facilities to be designed, constructed, maintained, and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.
39. During the Inspection on March 8, 2023, EPA inspectors observed, in the clinical lab in room P307 of the Foerderer Pavilion Building at the 1020 Locust Facility, under a counter, on a spill pallet, blue staining on a container in storage holding D001 hazardous waste, and blue staining on the spill pallet and on the floor.
40. On at least March 8, 2023, Respondent failed to maintain and operate the 1020 Locust Facility in a manner to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of D001 hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.

41. In failing to comply with 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.31, Respondent is subject to the assessment of penalties under Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g).

Count 5

Failure to maintain aisle space

42. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
43. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.35, which requires the owner or operator to maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.
44. During the March 8, 2023 Inspection of the hazardous waste accumulation area in Room 185A of the Walnut Street Facility, containers were stacked in a manner which prevented the inspectors from being able to view the containers and their labels to discern the contents of the containers.
45. On at least March 8, 2003, Respondent failed to maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency.
46. In failing to comply with 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.35, Respondent is subject to the assessment of penalties under Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g).

Count 6

Failure to properly complete Uniform Hazardous Waste Manifests

47. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
48. 25 Pa. Code § 262.10a, which incorporates by reference 40 C.F.R. § 262.20(a)(1),

requires a generator who transports or offers for transport a hazardous waste for offsite treatment, storage, or disposal must prepare a Manifest according to the instructions.

49. During the March 8, 2023 Inspection, inspectors observed that Respondent's hazardous waste manifests did not have a generator RCRA ID number associated with the following seven shipments of hazardous waste sent for offsite treatment, storage, or disposal:
- a. 018071636FLE (01/29/2023)
 - b. 018071936FLE (02/08/2023)
 - c. 017559721FLE (02/20/2023)
 - d. 017560041FLE (03/09/2023)
 - e. 017558312FLE (03/17/2023)
 - f. 017558365FLE (03/23/2023)
 - g. 017558717FLE (04/06/2023)
50. In failing to comply with 25 Pa. Code § 262.10, which incorporates by reference 40 C.F.R. § 262.20(a)(1), Respondent is subject to the assessment of penalties under Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g).

Count 7

A. Failure to store Universal Waste in closed containers

51. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
52. 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.13(d)(1), requires, in pertinent part, that a small quantity handler of universal waste must contain any lamp in containers or packages that are structurally sound and such containers must remain closed.
53. 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.13(c)(1), requires, in pertinent part, that a small quantity handler of universal waste must manage mercury-containing equipment in containers or packages that are structurally sound and such containers must remain closed.
54. Respondent is a small quantity handler of universal waste as these terms are defined in 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.9.
55. At the time of the Inspection on March 8, 2023, Respondent had in storage in the HWAA within Alumni Hall located at the 1020 Locust Street Facility a spent fluorescent lamp

lying on a shelf and not containerized as required by 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.13(d)(1).

56. At the time of the Inspection on March 8, 2023, Respondent had in storage in the HWAA within Alumni Hall located at the 1020 Locust Street Facility discarded mercury-containing equipment lying on a shelf and not containerized as required by 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.13(c)(1).
57. In failing to comply with 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.13(d)(1) and (c)(1), Respondent is subject to the assessment of penalties under Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g).

B. Failure to label or mark Universal Waste

58. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
59. 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.14(e), requires, in pertinent part, that a small quantity handler of universal waste lamp must label each lamp or container in which such lamps are contained and must be labeled or marked clearly with one of the following phrases: “Universal Waste-Lamps,” or “Waste Lamps,” or “Used Lamps”.
60. 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.14(a), requires, in pertinent part, that a small quantity handler- of universal waste batteries must label each battery or container in which such batteries are contained and must be labeled or marked clearly with one of the following phrases: “Universal Waste-Battery(ies),” or “Waste Batteries,” or “Used Batteries”.
61. At the time of the Inspection on March 8, 2023, Respondent had in storage in the HWAA within Alumni Hall located at the 1020 Locust Street Facility universal waste lamps in containers that were not labeled or marked clearly such individual lamps or the containers or package in which such lamps were contained with one of the following phrases: “Universal Waste - Lamp(s),” or “Waste Lamp(s),” or “Used Lamp(s)” as required by 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.14(e).
62. At the time of the Inspection on March 8, 2023, Respondent had in storage in the HWAA within Alumni Hall located at the 1020 Locust Street Facility universal waste batteries that were not labeled or marked clearly each universal waste battery, or the container in which the batteries were stored, with any one of the following phrases: “Universal

Waste - Battery(ies),” or “Waste Battery(ies),” or “Used Battery(ies);” as required 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.14(a).

63. In failing to comply with 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.14(e) and (a), Respondent is subject to the assessment of penalties under Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g).

C. Failure to date Universal Waste

64. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
65. 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.15(c), requires, in pertinent part, that a small quantity handler who accumulates universal waste must demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received by using any method in 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.15(c)(1) –(6).
66. At the time of the Inspection on March 8, 2023, Respondent was unable to demonstrate the length of time that the universal waste had been accumulated in the HWAA within Alumni Hall located at the 1020 Locust Street Facility from the date it became a waste or was received at the HWAA by using any method in 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.15(c)(1) –(6).
67. In failing to comply with 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.15(c)(1) – (6), Respondent is subject to the assessment of penalties under Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g).

CIVIL PENALTY

68. 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 **ONE HUNDRED SEVEN THOUSAND FIVE HUNDRED THIRTY-FIVE DOLLARS (\$107,535.00)**, which Respondent shall be liable to pay in accordance with the terms set forth below.
69. The civil penalty is based upon EPA’s consideration of a number of factors, including the penalty criteria (“statutory factors”) set forth in Section 3008(a)(3) of RCRA, 42 U.S.C.

§ 6928(a)(3). 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 ("RCRA Penalty Policy") which reflects the statutory penalty criteria and factors set forth at Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), 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.

70. Respondent agrees to pay a civil penalty in the amount of **ONE HUNDRED SEVEN THOUSAND FIVE HUNDRED THIRTY-FIVE DOLLARS (\$107,535.00)** ("Assessed Penalty") within thirty (30) days of the Effective Date of this Consent Agreement and Final Order.
71. Respondent shall pay the Assessed 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>.
72. When making a payment, Respondent shall:
 - a. Identify every payment with Respondent's name and the docket number of this Consent Agreement, RCRA-03-2025-0060,
 - b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve Proof of Payment simultaneously **by email** to the following person(s):

Louis F. Ramalho
Senior Assistant Regional Counsel
Ramalho.Louis@epa.gov

And

U.S. Environmental Protection Agency
Cincinnati Finance Center
CINWD_AcctsReceivable@epa.gov,

And

U.S. EPA Region 3 Regional Hearing Clerk
R3_Hearing_Clerk@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 the EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent’s name.

73. 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 Assessed Penalty per this Consent Agreement, EPA is authorized to recover, in addition to the amount of the unpaid Assessed Penalty, the following amounts.
- a. Interest. Interest begins to accrue from the Effective Date of this Consent Agreement. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until any unpaid portion of the Assessed 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” 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 Assessed Penalty in accordance with this Consent Agreement, 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 Assessed 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 Assessed Penalty, interest, penalties, and other charges, that remain delinquent more than ninety (90) days. Any such amounts will accrue from the Effective Date.
74. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Consent Agreement, 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.
75. 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 Assessed Penalty amount.
76. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Consent Agreement shall not be deductible for purposes of federal taxes.
77. Payment of the civil penalty is due and payable immediately upon Respondent's receipt 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).
78. The parties consent to service of the Final Order by e-mail at the following valid email addresses: Ramalho.louis@epa.gov (for Complainant), and Sjones@postschell.com (for Respondent).
79. 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;
- c. Respondent shall email its completed Form W-9 to EPA's Cincinnati Finance Center at henderson.jessica@epa.gov, within 30 days after the Final Order ratifying this Consent Agreement is filed, and EPA recommends encrypting IRS Form W-9 email correspondence; and
- d. 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 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 30 days after the Effective Date of the Final Order per Paragraph 89, below; 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.

GENERAL SETTLEMENT CONDITIONS

80. By signing this Consent Agreement, Respondent acknowledges that this Consent Agreement and Final Order will be available to the public and represents that, to the best of Respondent's knowledge and belief, this Consent Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondent.
81. Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this Consent Agreement and Final Order, including information about Respondent's ability to pay a penalty, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.
82. Respondent certifies to EPA, upon personal investigation and to the best of its knowledge and belief, that it currently is in compliance with regard to the violations alleged in this Consent Agreement.

OTHER APPLICABLE LAWS

83. Nothing in this Consent Agreement and Final Order shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This Consent Agreement and Final Order does not constitute a waiver, suspension or modification of the requirements of RCRA, or any regulations promulgated thereunder.

RESERVATION OF RIGHTS

84. This Consent Agreement and Final Order resolves only EPA's claims for civil penalties for the specific 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. Respondent reserves whatever rights or defenses it may have to defend itself in any such action.

EXECUTION /PARTIES BOUND

85. This Consent Agreement and Final Order shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and Final Order.

EFFECTIVE DATE

86. The effective date of this Consent Agreement and Final Order (“Effective Date”) is the date on which the Final Order, signed by the Regional Administrator of EPA, Region 3, or his/her designee, the Regional Judicial Officer, is filed along with the Consent Agreement with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

ENTIRE AGREEMENT

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

For Respondent:

THOMAS JEFFERSON UNIVERSITY HOSPITAL

Date: May 13, 2025

By: *Robert Toy*
Robert J. Toy, Senior Vice-President
Deputy General Counsel

For the Complainant: **U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION 3**

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 3, 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.

By: _____
[Digital Signature and Date]
Karen Melvin, Director
Enforcement & Compliance Assurance Division
U.S. EPA – Region 3
Complainant

Attorney for Complainant:

By: _____
[Digital Signature and Date]
Louis F. Ramalho
Sr. Assistant Regional Counsel
U.S. EPA – Region 3

Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, the statutory factors set forth in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), and the EPA’s October 1990 RCRA Civil Penalty Policy, as revised in June 2003 and May 2020 (“RCRA Penalty Policy”).

NOW, THEREFORE, PURSUANT TO Section 3008(a) and (g) of the Resource Conservation and Recovery Act (“RCRA” or the “Act”), as amended, 42 U.S.C. Section 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 **ONE HUNDRED SEVEN THOUSAND FIVE HUNDRED THIRTY-FIVE DOLLARS (\$107,535.00)**, 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: _____

By: _____

Joseph J. Lisa
Regional Judicial and Presiding Officer
U.S. EPA Region 3

Copies served via email to:

Stephen C. Jones
Senior Counsel
Post & Schell, P.C.
Sjones@postschell.com

Louis F. Ramalho
Senior Assistant Regional Counsel
U.S. EPA, Region 3
ramalho.louis@epa.gov

Eric Greenwood
Senior Enforcement Officer/Inspector
U.S. EPA, Region 3
greenwood.eric@epa.gov

Date: _____

Regional Hearing Clerk, Region 3

In the Matter of: Thomas Jefferson University Hospital.

EPA Docket No. RCRA-03-2025-0060