

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

In the matter of:	)	
	)	
Esschem, Inc.	)	Docket No. RCRA-03-2015-0086
4000 Columbia Avenue	)	
Linwood, PA 19061	)	
	)	
RESPONDENT.	)	Proceeding Under Section
	)	3008(a) and (g) of the
Esschem, Inc.	)	Resource Conservation and
4000 Columbia Avenue	)	Recovery Act, as amended,
Linwood, PA 19061	)	42 U.S.C. § 6928(a) and (g)
	)	
FACILITY.	)	

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**CONSENT AGREEMENT**

**I. PRELIMINARY STATEMENT**

1. This Consent Agreement is entered into by the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III ("Complainant"), and Esschem, Inc. ("Respondent"), pursuant to Section 3008(a) and (g) of the Solid Waste Disposal Act, commonly known as 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 C.F.R. Part 22, including, specifically, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).
2. The *Consolidated Rules of Practice*, at 40 C.F.R. § 22.13(b), provide, in pertinent part, that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding simultaneously may be commenced and concluded by the issuance of a consent agreement and final order pursuant to 40 C.F.R. § 22.18(b)(2) and (3). Pursuant thereto, this Consent Agreement and the accompanying Final Order, collectively referred to herein as the "CAFO," simultaneously commences and concludes this administrative proceeding against Respondent.
3. 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 established under RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g. Effective January 30,

1986, the Commonwealth of Pennsylvania Hazardous Waste Regulations (“PaHWR”) were authorized by the U.S. Environmental Protection Agency (“EPA” or “Agency”) pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), and 40 C.F.R. Part 271, Subpart A. The PaHWR subsequently were revised, and thereafter re-authorized by EPA, on September 26, 2000, January 20, 2004, and April 29, 2009. Such authorized revised PaHWR requirements and provisions became effective on November 27, 2000, March 22, 2004, and June 29, 2009 respectively. The PaHWR 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 PaHWR authorization, June 28, 2001 for the March 22, 2004 PaHWR authorization, and October 12, 2005 for the April 29, 2009 PaHWR authorization. The provisions of Pennsylvania’s current authorized revised PaHWR, codified at 25 Pa. Code Chapters 260a-266a, 266b, and 268a-270a, have thereby become requirements of RCRA Subtitle C and are enforceable by EPA pursuant to RCRA § 3008(a), 42 U.S.C. § 6928(a).

4. Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), authorizes EPA to initiate an enforcement action whenever it is determined that a person is in violation of any requirement of RCRA Subtitle C, EPA’s regulations thereunder, or any regulation of a state hazardous waste program which has been authorized by EPA. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), authorizes the assessment of a civil penalty against any person who violates any requirement of Subtitle C of RCRA.
5. This Consent Agreement and the accompanying Final Order address alleged violations by Respondent of Subtitle C of RCRA, 42 U.S.C. §§ 6921–6939g, and the authorized Pennsylvania Hazardous Waste Regulations, set forth at 25 Pa. Code §§ 260a-270a, *et seq.*, which incorporate by reference the federal hazardous waste regulations set forth at 40 C.F.R. Parts 260–266, 268 and 270-273, in connection with Respondent’s facility. Respondent’s facility is located at 4000 Columbia Avenue, Linwood, PA, 19061 (the “Facility”). Factual allegations or legal conclusions in this Consent Agreement that are based on provisions of federally-authorized PaHWR requirements cite those respective provisions as the authority for such allegations or conclusions.
6. In accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), and by written letter dated February 12, 2014, EPA notified the Commonwealth of Pennsylvania, through 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.

## **II. GENERAL PROVISIONS**

7. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
8. Respondent neither admits nor denies the specific factual allegations or the conclusions of law contained in this CAFO, except as provided in Paragraph 7, above.

9. Respondent agrees not to contest EPA's jurisdiction with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of the CAFO.
10. For the purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and any right to appeal the accompanying Final Order.
11. Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions.
12. Respondent shall bear its own costs and attorney's fees.

### **III. EPA FINDINGS OF FACT AND CONCLUSIONS OF LAW**

13. In accordance with the *Consolidated Rules of Practice* at 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3), Complainant makes the following findings of fact and conclusions of law:
14. EPA has jurisdiction over this matter pursuant to RCRA Section 3008(a) and (g), 42 U.S.C. § 6928(a) and (g).
15. Respondent is a Pennsylvania corporation.
16. Respondent is, and was at the time of the violations alleged herein, a "person" as that term is defined in Section 1004(15) of RCRA, 42 U.S.C. Section 6903(15) and 25 Pa. Code § 260a.10.
17. Respondent was, at all times relevant to the allegations set forth in this CAFO, the "owner" and "operator" of a "facility" located at 4000 Columbia Avenue, Linwood, PA 19061 (hereinafter, "the Facility"), as the term "facility" is defined in 25 Pa. Code § 260a.10, and as the remaining terms are defined in 40 C.F.R. § 260.10, as incorporated by reference in 25 Pa. Code § 260a.1.
18. Respondent's Facility blends and reacts monomers and polymers for the medical, dental and cosmetic industries.
19. As described below, Respondent was, at all times relevant to this CAFO, a "generator" of "solid waste" and "hazardous waste" at the Facility, as these terms are defined in 40 C.F.R. § 260.10, as incorporated by reference in 25 Pa. Code § 260a.1.
20. At all times relevant to this CAFO, and as described below, Respondent was engaged in the "storage" of "solid waste" and "hazardous waste" in "container[s]" at the Facility, as the term "storage" is defined in 25 Pa. Code § 260a.10, and as the remaining terms are defined in 40 C.F.R. § 260.10, as incorporated by reference in 25 Pa. Code § 260a.1.

21. Respondent's Facility was, at all times relevant to the allegations set forth in this CAFO, a hazardous waste storage "facility" as that term is defined in 40 C.F.R. § 260.10 and 25 Pa. Code § 260a.10.
22. A representative of EPA conducted a Compliance Evaluation Inspection ("the EPA Inspection") at the Facility on August 7, 2013, to examine the Respondent's compliance with the federally-authorized PaHWR requirements at the Facility. EPA prepared a report summarizing its observations and findings from the Inspection of the Facility (the "EPA Inspection Report").
23. On January 8, 2014, EPA issued a formal information request letter ("IRL") to Respondent, pursuant to Section 3007(a) of RCRA, 42 U.S.C. § 6927(a). Respondent provided information to EPA in response to the IRL on February 4, 2014 ("ILR Response").
24. On October 16, 2014, EPA sent a Request to Show Cause and Request for Information ("Show Cause letter") to Respondent advising it of EPA's preliminary findings of PaHWR violations at the Facility and offering the Respondent an opportunity to provide such additional information as it believed the Agency should review and consider before reaching any final conclusions as to the Respondent's PaHWR compliance at the Facility. Respondent provided additional information to EPA in response to the Show Cause letter ("Show Cause Response").
25. On the basis of the Inspection and a review of the information provided to EPA by Respondent in its IRL Response, Show Cause Response, and other communications, EPA has concluded that Respondent has violated certain requirements and provisions of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, and federally authorized PaHWR requirements promulgated thereunder.

#### **COUNT I**

##### ***(Operating a Hazardous Waste Storage Facility Without a Permit or Interim Status)***

26. The allegations of Paragraphs 1 through 25, above, of this Consent Agreement are incorporated herein by reference.
27. At all times relevant to this CA, Respondent was the generator of hazardous waste, having EPA Hazardous Waste Numbers that include, but which are not necessarily limited to, D001/U118/U220 flammable monomer waste and D001/D035/F003 mixed solvent waste, as specified in 40 C.F.R. §§ 261.21, 261.24, 261.31 and 261.33 and incorporated by reference in 25 Pa. Code § 261a.1.
28. On August 7, 2013, at the time of the EPA Inspection, Respondent was storing hazardous wastes in a variety of containers, in several locations at the Facility, including:
  - a. One 55-gallon drum of D001/U118/U220 Waste Flammable Monomers stored in the Waste Storage Shed with open spigot;

- b. One 55-gallon drum of D001/D035/F003 Waste Flammable Solvents stored in the Waste Storage Shed with open spigot;
  - c. Several various size containers of D001 hazardous waste content, designated as “trash,” stored in the Monomer Storage Shed.
  - d. Many small laboratory sample bottles designated for “discard” as D001 hazardous waste content stored in the Cold Room.
29. Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and Pa. Code 25 § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), provide, with certain exceptions not relevant to the violations alleged herein, that a person may not own or operate a hazardous waste treatment, storage or disposal facility (“TSDF”) unless such person has first obtained a permit or interim status for the facility.
30. Respondent has never had “interim status” pursuant to RCRA Section 3005(e) or 25 Pa. Code § 270a.1, or a permit issued pursuant to RCRA Section 3005(a) or 25 Pa. Code § 270a.1, for the treatment, storage, or disposal of hazardous waste at the Facility.
31. Pursuant to 25 Pa. Code § 262a.10, which incorporates by reference the requirements of 40 C.F.R. § 262.34(a), (b) and (c), and, *inter alia*, 40 C.F.R. Part 265, Subparts C, D, I, J, AA, BB, and CC, and 40 C.F.R. § 265.16, generators of hazardous waste who accumulate hazardous waste on-site for less than 90 days are exempt from the requirement to obtain a permit for such accumulation, as long as the hazardous waste is stored in accordance with a number of specified conditions.
32. The following acts or omissions prevented Respondent from meeting the regulatory generator permit exemption conditions:
- a. Respondent was storing hazardous waste for greater than 90 days, from September 29, 2010 to January 11, 2011, in violation of 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. §§ 262.34(a).
  - b. At the time of the EPA Inspection on August 7, 2013, Respondent failed to mark drums of hazardous waste located in the Waste Storage Shed with the date upon which each period of accumulation began, as required by 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(2).
  - c. Respondent failed to conduct required annual refresher hazardous waste management procedure training for all Facility personnel involved in hazardous waste management at the Facility, during the years 2010, 2011, 2012 and 2013, as required by 25 Pa. Code § 265a.1, which incorporates by reference 40 C.F.R. § 265.16(c).
  - d. Respondent failed to keep a record of annual training for Facility personnel, for the year 2011, as required by 25 Pa. Code § 265a.1, which incorporates by reference 40 C.F.R. § 265.16(d)(4).

- e. At the time of the EPA Inspection on August 7, 2013, Respondent failed to keep containers of hazardous waste, identified in Paragraph 28.b., above, closed during storage, except when necessary to add or remove hazardous waste, as required by 25 Pa. Code § 265a.1, which incorporates by reference 40 C.F.R. § 265.173(a), within 40 C.F.R. Part 265, Subpart I.
- 33. For each of the reasons and during each of the times set forth above, Respondent failed to comply with the conditions for the temporary storage (*i.e.*, 90 days or less) of hazardous waste by a generator that are required pursuant to 40 C.F.R. § 262.34(a), as incorporated by reference in 25 Pa. Code § 262a.10, and therefore failed to qualify for an exemption from the permitting/interim status requirements provided by such section.
  - 34. Respondent violated 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), by storing hazardous waste at the Facility without a permit, interim status or valid exemption to the permitting/interim status requirements.

**COUNT II**  
***(Failure to Make a Hazardous Waste Determination)***

- 35. The allegations of Paragraphs 1 through 34, above, are incorporated herein by reference as though fully set forth at length.
- 36. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.11, provides that a person who generates a solid waste must determine whether that waste is a hazardous waste.
- 37. On August 7, 2013, Respondent was storing the following containers, which were not labeled as hazardous waste, and were not marked with an accumulation start date:
  - a. Several containers of D001 hazardous waste designated as “trash” in the Monomer Storage Shed of the Facility.
  - b. Many small laboratory sample bottles designated for “discard” as D001 hazardous waste content stored in the Cold Room of the Facility.
- 38. The wastes in the previous Paragraph were “solid wastes” and “hazardous wastes,” within the definition and meaning of 40 C.F.R. § 260.10, as incorporated by reference by 25 Pa. Code § 260a.1.
- 39. At the time of the EPA Inspection on August 7, 2013, Respondent had failed to make a timely hazardous waste determination, in accordance with the requirements in 25 Pa. Code § 262a.10, for the waste stored in containers in the Monomer Storage Shed and the waste stored in small laboratory bottles in the Cold Room of the Facility.
- 40. On August 7, 2013, Respondent violated 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.11, by failing to make a timely hazardous waste determination for several solid wastes then in storage at the Facility.

**COUNT III**  
***(Failure to Conduct RCRA Annual Refresher Training)***

41. The allegations of Paragraphs 1 through 40, above, are incorporated herein by reference as though fully set forth at length.
42. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.16(c), requires the owner or operator of a hazardous waste facility to provide annual hazardous waste refresher training to each person employed in a position related to hazardous waste management. The program may consist of classroom instruction or on-the-job training.
43. In calendar year 2010, Respondent failed to conduct a required RCRA refresher training for one Facility employee then engaged in a position related to hazardous waste management at the Facility.
44. In calendar year 2011, Respondent failed to conduct a required RCRA refresher training for one Facility employee then engaged in a position related to hazardous waste management at the Facility.
45. In calendar year 2012, Respondent failed to conduct a required RCRA refresher training for three Facility employees then engaged in positions related to hazardous waste management at the Facility.
46. In calendar year 2013, Respondent failed to conduct a required RCRA refresher training for three Facility employees then engaged in positions related to hazardous waste management at the Facility.
47. During each of calendar years 2010 through 2013, Respondent violated 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.16(c), by failing to provide annual RCRA refresher training to Facility employees, referenced above, then engaged in positions related to hazardous waste management at the Facility.

**COUNT IV**  
***(Failure to Keep Record of Annual RCRA Training)***

48. The allegations of Paragraphs 1 through 47, above, are incorporated herein by reference as though fully set forth at length.
49. 25 Pa. Code Section 264a.1, which incorporates by reference 40 C.F.R. § 264.16(d)(4), requires the owner or operator of a hazardous waste facility to maintain records that document the hazardous waste management training or job experience required under 40 C.F.R. § 264.16(a), (b) and (c), has been given to, and completed by, facility personnel.
50. In calendar year 2011, Respondent failed to maintain documentation of the RCRA refresher training that it had provided to a Facility employee, pursuant to 40 C.F.R.

§ 264.16(c), then engaged in a supervisory position related to hazardous waste management at the Facility.

51. During calendar year 2011, Respondent violated 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.16(d), by failing to maintain documentation of annual RCRA refresher training for a Facility employee referenced above, then engaged in a supervisory position related to hazardous waste management at the Facility.

**COUNT V**

***(Failure to Keep Containers of Hazardous Waste Closed During Storage)***

52. The allegations of Paragraphs 1 through 51, above, are incorporated herein by reference as though fully set forth at length.
53. 25 Pa. Code Section 264a.1, which incorporates by reference 40 C.F.R. § 264.173(a), provides, in relevant part, and with exceptions not herein applicable, that “[a] container holding hazardous waste must always be kept closed during storage, except when it is necessary to add or remove waste.”
54. At the time of the EPA Inspection on August 7, 2013, Respondent was storing:
- a. One 55-gallon drum of D001/U118/U220 Waste Flammable Monomers with an open spigot, in the Waste Storage Shed of the Facility.
  - b. One 55-gallon drum of D001/D035/F003 Waste Flammable Solvents with an open spigot, in the Waste Storage Shed of the Facility.
55. The containers listed in the Paragraph immediately above were not kept closed at times when it was not necessary to add or remove waste. The open spigots were not leaking waste.
56. On August 7, 2013, Respondent violated 25 Pa. Code § 264a.1, which incorporates by reference the requirements of 40 C.F.R. § 264.173(a), by storing hazardous waste in containers that were not kept closed at times when it was not necessary to add or remove waste.

**COUNT VI**

***(Failure to Store Universal Waste Lamps in Closed Containers)***

57. The allegations of Paragraphs 1 through 56, above, are incorporated herein by reference as though fully set forth at length.
58. 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.13(d)(1), requires that small quantity handlers of universal waste lamps must contain lamps in containers or packages that are structurally sound, and such containers or packages must remain closed.
59. At the time of the EPA Inspection on August 7, 2013, Respondent was a small quantity handler of universal waste lamps, within the definition and meaning of 40 C.F.R. § 273.9.



60. At the time of the EPA Inspection on August 7, 2013, Respondent was storing two open boxes of used lamps and one open drum of used lamps in the Maintenance and Electrical Room of the Facility.
61. On August 7, 2013, Respondent violated 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.13(d)(1), by failing to keep closed three containers of universal waste lamps.

#### **COUNT VII**

##### ***(Failure to Label Containers of Universal Waste Lamps)***

62. The allegations of Paragraphs 1 through 61, above, are incorporated herein by reference as though fully set forth at length.
63. 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.14(e), requires that, for small quantity generators of universal waste lamps, each lamp or container or package containing such lamps, must be clearly marked or labeled with one of the following phrases: “Universal Waste-Lamp(s)” or “Waste Lamp(s)” or “Used Lamp(s).”
64. At the time of the EPA Inspection on August 7, 2013, Respondent failed to label one box and one drum of universal waste lamps, both of which were then being stored in the Maintenance and Electrical Room of the Facility.
65. On August 7, 2013, Respondent violated 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.14(e), by failing to label two containers of universal waste lamps with one of the required phrases.

#### **IV. CIVIL PENALTIES**

66. Respondent agrees to pay a civil penalty in the amount of **THIRTY FIVE THOUSAND DOLLARS (\$35,000.00)**, in full and final settlement and satisfaction of all civil claims for penalties which Complainant may have concerning the violations and facts alleged and set forth in Section III (“EPA Findings of Fact and Conclusions of Law”) of this Consent Agreement. Such civil penalty shall become due and payable immediately upon Respondent’s receipt of a true and correct copy of this CAFO. In order to avoid the assessment of interest, administrative costs and late payment penalties in connection with such civil penalty, Respondent must pay such civil penalty no later than thirty (30) calendar days after the date on which a copy of this CAFO is mailed or hand-delivered to Respondent.
67. The civil penalty settlement amount set forth in Paragraph 66, immediately above, was determined after consideration of the statutory factors set forth 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 (“RCRA Penalty Policy”), which reflect the statutory penalty criteria and factors set forth at

Section 3008(a)(3) and (g) of RCRA, 42 U.S.C. §§ 6928(a)(3) and (g). Complainant has also considered the Adjustment of Civil Penalties for Inflation, 40 C.F.R. Part 19, and the November 16, 2009 Memorandum by EPA Waste and Chemical Enforcement Division Director Rosemarie A. Kelley *Adjusted Penalty Policy Matrices Based on the 2008 Civil Monetary Penalty Inflation Adjustment Rule* (“Kelley Memorandum”). The settlement in this proceeding is consistent with the provisions and objectives of Section 3008 of RCRA, and its implementing regulations.

68. Payment of the civil penalty set forth in Paragraph 66, above, plus any interest, administrative fees, and late payment penalties owed, in accordance with Paragraphs 69 through 72, below, shall be made by either cashier's check, certified check, or electronic wire transfer, in the following manner:

a. All payments by Respondent shall reference Respondent's name and address, and the EPA Docket Number of this Consent Agreement, *i.e.*, RCRA-03-2015-0086;

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 and mailed to:

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

Customer service contact: 513-487-2091

d. All payments made by check and sent by overnight delivery service shall be addressed and mailed to:

U.S. Environmental Protection Agency  
Cincinnati Finance Center  
Government Lockbox 979077  
1005 Convention Plaza  
Mail Station SL-MO-C2-GL  
St. Louis, MO 63101

Contact: 314-418-1818

e. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance  
US EPA, MS-NWD  
26 W. M.L. King Drive  
Cincinnati, OH 45268-0001

- f. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, NY 10045

Field Tag 4200 of the Fedwire message should read:  
"D 68010727 Environmental Protection Agency"

- g. 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 No.: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 - Checking

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

Contact: 866-234-5681

- h. On-Line Payment Option: WWW.PAY.GOV/paygov/

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

- i. Additional payment guidance is available at:

<http://www2.epa.gov/financial/makepayment>

Or by contacting Craig Steffen at 513-487-2091

- j. At the time of payment, Respondent shall send a notice of such payment, including a copy of the check or electronic fund transfer, as applicable, to:

Ms. Lydia Guy  
Regional Hearing Clerk (3RC00)  
U.S. EPA, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029;

and

Natalie Katz  
Sr. Assistant Regional Counsel (3RC30)  
U.S. EPA, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029.

69. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest, administrative costs 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 CAFO shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.
70. In accordance with 40 C.F.R. § 13.11(a), interest on any civil penalty assessed in a CAFO begins to accrue on the date that a copy of the CAFO is mailed or hand-delivered to the Respondent. However, EPA will not seek to recover interest on any amount of such 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).
71. 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.
72. A late payment penalty of six percent (6%) per year will be assessed monthly on any portion of a civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on a debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
73. The Respondent agrees not to deduct for federal tax purposes the civil monetary penalty specified in this Consent Agreement and the accompanying Final Order.

#### **V. CERTIFICATIONS**

74. Respondent certifies to Complainant by its signature hereto, to the best of Respondent's knowledge and belief, that Respondent is in compliance with all relevant provisions of the current, authorized revised PaHWR and of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, for which violations are alleged in this Consent Agreement.

#### **VI. OTHER APPLICABLE LAWS**

75. Nothing in this CAFO shall relieve Respondent of any duties otherwise imposed upon it by applicable federal, state, or local law and/or regulation.

## **VII. RESERVATION OF RIGHTS**

76. This CAFO resolves only EPA's claims for civil penalties for the specific violations and facts which are alleged in this Consent Agreement. Nothing in this CAFO shall be construed as limiting the authority of EPA to undertake action against any person, including the 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. In addition, 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*. 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 CAFO following its filing with the Regional Hearing Clerk.

## **VIII. FULL AND FINAL SATISFACTION**

77. This settlement shall constitute full and final satisfaction of all civil claims for penalties which Complainant has under RCRA Section 3008(a) and (g), 42 U.S.C. § 6928(a) and (g), for the violations alleged in this Consent Agreement. Compliance with the requirements and provisions of this CAFO shall not be a defense to any action commenced at any time for any other violation of the federal laws and/or regulations administered by EPA.

## **IX. PARTIES BOUND**

78. This Consent Agreement and the accompanying Final Order shall apply to and be binding upon the EPA, the Respondent, Respondent's officers and directors (in their official capacity) and Respondent's successors and assigns. By his or her signature below, the person signing this Consent Agreement on behalf of Respondent acknowledges that he or she is fully authorized to enter into this Consent Agreement and to bind the Respondent to the terms and conditions of this Consent Agreement and the accompanying Final Order.

## **X. EFFECTIVE DATE**

79. The effective date of this CAFO is the date on which the Final Order is filed with the Regional Hearing Clerk after signature by the Regional Administrator or his designee, the Regional Judicial Officer.

**XI. ENTIRE AGREEMENT**

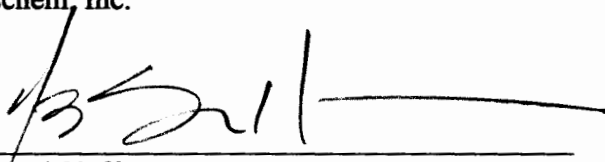
80. This CAFO constitutes the entire agreement and understanding of the parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this CAFO.

For Respondent:

Esschem, Inc.

Date: 3 March 2015

By:


  
Howard Slaff  
President and COO

For the Complainant:

U.S. Environmental Protection Agency, Region III

Date: 3/3/15

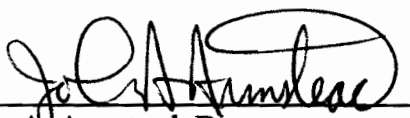
By:

  
Natalie L. Katz  
Sr. Assistant Regional Counsel

After reviewing the EPA Findings of Fact and Conclusions of Law and other pertinent matters, the Land and Chemicals Division of the United States Environmental Protection Agency, Region III, recommends that the Regional Administrator, or his designee, the Regional Judicial Officer, issue the attached Final Order.

Date: 3.11.15

By:

  
John A. Armstead, Director  
Land and Chemicals Division

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

<b>In the matter of:</b>	)	
	)	
<b>Esschem, Inc.</b>	)	<b>Docket No. RCRA-03-2015-0086</b>
<b>4000 Columbia Avenue</b>	)	
<b>Linwood, PA 19061</b>	)	
	)	
<b>RESPONDENT.</b>	)	<b>Proceeding Under Section</b>
	)	<b>3008(a) and (g) of the</b>
<b>Esschem, Inc.</b>	)	<b>Resource Conservation and</b>
<b>4000 Columbia Avenue</b>	)	<b>Recovery Act, as amended,</b>
<b>Linwood, PA 19061</b>	)	<b>42 U.S.C. § 6928(a) and (g)</b>
	)	
<b>FACILITY.</b>	)	

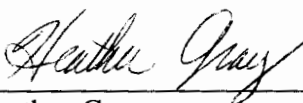
**FINAL ORDER**

Complainant, the Director, Land and Chemical Division, U.S. Environmental Protection Agency, Region III, and Respondent, Esschem, Inc., have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22. The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated herein as if set forth at length.

NOW, THEREFORE, PURSUANT TO Section 22.18(b)(3) of the Consolidated Rules of Practice and Section 3008(a) and (g) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6928(a) and (g) ("RCRA"), and having determined, based on the representations of the parties in the attached Consent Agreement, that the civil penalty agreed to therein was based upon a consideration of the factors set forth in Section § 3008(a)(3) and (g), 42 U.S.C. § 6928(a)(3) and (g), IT IS HEREBY ORDERED that Respondent pay a civil penalty payment of **THIRTY FIVE THOUSAND DOLLARS (\$35,000.00)**, as set forth in Section IV of the Consent Agreement, and to comply with the terms and conditions of the Consent Agreement.

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

3-16-15  
Date:

  
\_\_\_\_\_  
Heather Gray  
Regional Judicial Officer  
U.S. EPA, Region III

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

<b>In the Matter of</b>	:	
	:	
<b>Esschem, Inc.</b>	:	<b>Docket No. RCRA-03-2015-0086</b>
<b>400 Columbia Avenue</b>	:	
<b>Linwood, PA 19061</b>	:	
	:	
<b>Respondent</b>	:	<b>Proceeding under Section 3008(a) and</b>
	:	<b>(g) of the Resource Conservation and</b>
	:	<b>Recovery Act, as amended, 42 U.S.C.</b>
<b>4000 Columbia Avenue</b>	:	<b>§ 6928(a) and (g)</b>
<b>Linwood, PA 19061</b>	:	
	:	
<b>Facility</b>	:	

**CERTIFICATE OF SERVICE**

I hereby certify that I filed and served copies of the attached Consent Agreement and Final Order, as follows:

Original and One Copy  
filed: (via hand delivery)

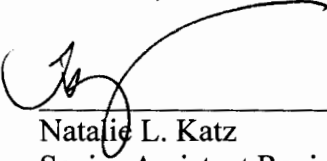
Lydia Guy (3RC00)  
Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region III  
1650 Arch Street  
Philadelphia, PA 19103

Copies to:  
(via Overnight Mail)

Timothy J. Bergère, Partner  
Montgomery McCracken Walker  
& Rhoads LLP  
123 South Broad Street  
Philadelphia, PA 19109

Howard Slaff, President and COO  
Esschem, Inc.  
4000 Columbia Avenue  
Linwood, PA 19061

Date:

  
\_\_\_\_\_  
Natalie L. Katz  
Senior Assistant Regional Counsel  
EPA, Region III

REGIONAL HEARING CLERK  
EPA REGION III, PHILA. PA

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