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BEFORE THE UNITED STATES  
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REGION III

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In the Matter of:

Sharretts Plating Co., Inc.  
3315 Connelly Road  
Emigsville, Pennsylvania 17318,

Respondent.

Docket No. RCRA-03-2015-0033

CONSENT AGREEMENT

Proceeding under RCRA Section  
3008(a)(1) and (g), 42 U.S.C.  
§ 6928(a)(1) and (g)

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 Sharretts Plating Co., Inc. ("Respondent"), pursuant to Section 3008(a)(1) and (g) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6928(a)(1) 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.
2. The Consolidated Rules of Practice, 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. This CAFO addresses Respondent's violations of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, various regulations promulgated thereunder as set forth at 40 C.F.R. Parts 260-266, 268, and 270-73, and the authorized Pennsylvania Hazardous Waste Management Regulations, 25 Pa. Code Sections 260a - 266a, 266b, and 268a – 273a ("PaHWMR") that occurred at the Respondent's facility located at 3315 Connelly Road, Emigsville, Pennsylvania 17318 ("Facility").
4. 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 Management Regulations ("PaHWMR") were authorized by the U.S. Environmental Protection Agency ("EPA") pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), and 40 C.F.R. Part 271, Subpart A. The PaHWMR subsequently were revised, and thereafter re-authorized by EPA, on September 26, 2000, January 20, 2004, and April 29, 2009. Such authorized revised PaHWMR requirements and provisions became effective on November 27, 2000, March 22, 2004, and June 29, 2009, respectively. The PaHWMR incorporate, with certain exceptions, federal hazardous waste management regulations that were in effect as of May 1, 1999 (and as of July 6, 1999 for certain regulations regarding Universal Waste) for the November 27, 2000 PaHWMR authorization, June 28, 2001 for the March 22, 2004 PaHWMR authorization, and October 12, 2005 for the April 29, 2009 PaHWMR authorization. The provisions of Pennsylvania's current authorized PaHWMR, 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 Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).
5. Upon making a determination that any person has violated or is in violation of any requirement of RCRA Subtitle C and satisfying the notification requirements of RCRA Section 3008(a)(2), 42 U.S.C. § 6928(a)(2), Section 3008(a)(1) of RCRA, 42 U.S.C. § 6928(a)(1), authorizes the Administrator of EPA to issue an order assessing a civil penalty for any past or current violation, requiring compliance immediately or within a specified time period, or both.
6. Respondent is, hereby, notified of EPA's determination that Respondent has violated RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, the regulations promulgated thereunder at 40 C.F.R. Parts 260-266, 268, and 270-73, and the PaHWMR.
7. EPA has given the Commonwealth of Pennsylvania, through the Pennsylvania Department of Environmental Protection ("PADEP"), prior notice of the commencement of this civil proceeding in accordance with RCRA Section 3008(a)(2), 42 U.S.C. § 6928(a)(2).

## **II. GENERAL PROVISIONS**

8. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.

9. Except as provided in Paragraph 8, above, Respondent neither admits nor denies the specific factual allegations and legal conclusions set forth in this CAFO.
10. 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 CAFO.
11. For purposes of this proceeding only, Respondent hereby expressly waives its right to a hearing on any issue of law or fact in this matter, consents to the issuance of this CAFO without adjudication, and waives its right to appeal the accompanying Final Order.
12. Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions.
13. Respondent and Complainant shall bear their own costs and attorney's fees in connection with this proceeding.

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

14. 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 the following findings of fact and conclusions of law set forth in Section III of this CAFO.
15. Respondent is a Pennsylvania corporation doing business in, and with offices and an operating facility located within, the Commonwealth of Pennsylvania, and is a "person" within the meaning of RCRA Section 1004(15), 42 U.S.C. § 6903(15), 40 C.F.R. § 260.10, and 25 Pa. Code Section 260a.10.
16. Respondent is and has been, at all times relevant to this CAFO, the owner and operator of a facility, located at 3315 Connelly Road, Emigsville, Pennsylvania (the "Facility"), where the Respondent operates a plating business.
17. On or about December 7, 2011, a duly authorized representative of EPA, Region III, conducted a compliance evaluation inspection ("CEI") of the Facility to assess the Respondent's compliance with the requirements of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, the federal regulations promulgated thereunder, and the PaHWMR requirements at the Facility.

**COUNT I**

(Operating a Hazardous Waste Storage Facility without a Permit)

18. The allegations of Paragraphs 1 through 17 of this Consent Agreement are incorporated herein by reference as though fully set forth at length.

19. RCRA Section 3005(a) and (e), 42 U.S.C. Section 6925(a) and (e), and 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. Part 270, provide, in pertinent part, that no person may own and/or operate a facility used for the treatment, storage or disposal of hazardous waste without first obtaining a permit from EPA or a state with an authorized hazardous waste management program, or have interim status for such facility.
20. At all times relevant this Consent Agreement, Respondent generated at the Facility “hazardous waste” (i.e. plating-related hazardous waste), as that term is defined by RCRA Section 1004(5), 42 U.S.C. § 6903(5), and 25 Pa. Code Sections 260a.1 and 261a.1, which incorporate by reference 40 C.F.R. §§ 260.10 and 261.3. See also 25 Pa Code Section 261a.3.
21. The Facility was assigned the EPA Identification Number PAD069799419.
22. At all times relevant to this Consent Agreement, Respondent was a “generator” of hazardous waste as that term is defined by 25 Pa. Code Section 260a.1, which incorporates by reference 40 C.F.R. § 260.10.
23. At all times relevant to this Consent Agreement, hazardous waste was in “storage” in containers and tanks at Respondent’s “facility” as those terms are defined by RCRA Section 1004(33), 42 U.S.C. § 6903(33), 25 Pa. Code Section 260a.1, which incorporates by reference 40 C.F.R. § 260.10, and 25 Pa. Code Section 260a.10.
24. At all times relevant to this Consent Agreement, Respondent was the “owner” and “operator” of a hazardous waste storage facility as those terms are defined by 25 Pa. Code Section 260a.1, which incorporates by reference 40 C.F.R. § 260.10.
25. A “container” is defined to mean “any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.” 25 Pa. Code Section 260a.1, which incorporates by reference 40 C.F.R. § 260.10.
26. A “tank” is defined to mean “a stationary device, designed to contain an accumulation of hazardous waste which is constructed primarily of non-earthen materials (e.g., wood, concrete, steel, plastic) which provide structural support.” 25 Pa. Code Section 260a.1, which incorporates by reference 40 C.F.R. § 260.10.
27. At all times relevant to this Consent Agreement, Respondent never possessed a permit or interim status authorizing the treatment, storage or disposal of hazardous waste at the Facility.
28. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a), provides, in pertinent part, that a generator of hazardous waste may accumulate hazardous waste on-site for 90 days or less without a permit or interim status, provided the generator complies with a number of conditions concerning the management of the hazardous waste, including, but not limited to:

- (1) Compliance with applicable requirements of Subparts J, AA, BB and CC of 40 C.F.R. Part 265, except §§ 265.197(c) and 265.200, with regard to the storage of hazardous waste in tanks (40 C.F.R. § 262.34(a)(1)(ii));
  - (2) Compliance with applicable requirements of Subparts I, AA, BB and CC of 40 C.F.R. Part 265, with regard to the storage of hazardous waste in containers (40 C.F.R. § 262.34(a)(1)(i), and 25 Pa. Code Section 262a.34, and Chapter 265a, Subchapter I);
  - (3) Ensuring that, with regard to the storage of hazardous waste in containers, the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container (40 C.F.R. § 262.34(a)(2));
  - (4) Ensuring that, while being accumulated on-site, each container and tank storing hazardous waste is labeled or marked clearly with the words “Hazardous Waste” (40 C.F.R. § 262.34(a)(3)); and
  - (5) Compliance with the requirements for owners or operators of Subparts C [Preparedness and Prevention] and D [Contingency Plan and Emergency Procedures] in 40 C.F.R. Part 265, with 40 C.F.R. § 265.16 [relating to personnel training], and all applicable requirements under 40 C.F.R. Part 268. (40 C.F.R. § 262.34(a)(4)).
29. At the time of the December 7, 2011 CEI, Respondent was storing hazardous waste at the Facility in, among other things: containers (“Super Sacks”) in a storage area; containers (“totes”) in a storage area; a container (“drum”) in a prototype area; a container in the boiler room; and a container (“roll-off”) in the outside rear area of the Facility.
30. The containers identified in the preceding Paragraph of this CAFO meet the definition of a “container” as that term is defined by 25 Pa. Code Section 260a.1, which incorporates by reference 40 C.F.R. § 260.10.
31. Respondent did not qualify for the aforementioned 90-day permitting exemption provided by 25 Pa. Code Section 262a.10 (40 C.F.R. § 262.34) in that, as explained in more detail, below, Respondent was not in compliance with prerequisite requirements because of Respondent’s:
- Storage of hazardous waste in containers that were open at a time when waste was not being added (25 Pa. Code Section 265a.1 and 40 C.F.R. § 265.173);
  - Failure to mark containers of hazardous waste with accumulation start dates and be visible for inspection (25 Pa. Code Section 262a.10 and 40 C.F.R. § 262.34(a)(2));
  - Failure to comply with hazardous waste marking requirements (25 Pa. Code Section 262a.10 and 40 C.F.R. § 262.34(a)(3));
  - Failure to comply with hazardous waste personnel training requirements (25

- Pa. Code Section 265a.1 and 40 C.F.R. § 265.16(a) - (c));
  - Failure to comply with hazardous waste job descriptions requirements (25 Pa. Code Section 265a.1 and 40 C.F.R. § 265.16(d)(2)); and
  - Failure to comply with contingency plan requirements (25 Pa. Code Section 265a.1 and 40 C.F.R. §§ 265.52(d)).
32. On at least December 7, 2011, Respondent violated RCRA Section 3005(a) and (e), 42 U.S.C. Section 6925(a) and (e), and 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), by owning and operating a hazardous waste storage facility without a permit or interim status.

**COUNT II**  
(Open Containers)

33. The allegations of Paragraphs 1 through 32 of this Consent Agreement are incorporated by reference as though fully set forth at length.
34. 25 Pa. Code Section 264a.1, which incorporates by reference 40 C.F.R. § 264.173, provides that a container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.
35. During the December 7, 2011 CEI, Respondent had the following open containers holding hazardous waste at the Facility and the containers were open at times when it was not necessary to add or remove waste from the containers: 3 containers (“Super Sacks”) of F006 hazardous waste in a storage area of the Facility; three containers (“totes”) of spent plating solution hazardous waste in a storage area of the Facility; and a container of hazardous waste in the prototype area of the Facility.
36. On or about December 7, 2011, Respondent violated 25 Pa. Code Section 264a.1, which incorporates by reference 40 C.F.R. § 264.173, by maintaining open containers of hazardous waste at the Facility, as identified in Paragraph 35, above, and the containers were open at times when it was not necessary to add or remove waste from the containers.

**COUNT III**  
(Failure to Perform Hazardous Waste Determinations)

37. The allegations of Paragraphs 1 through 36 of this Consent Agreement are incorporated by reference as though fully set forth at length.
38. 25 Pa Code Section 262a.10, which incorporates by reference 40 C.F.R. § 262.11(a) and (b), requires that a person who generates a solid waste, as defined by 40 C.F.R. § 261.2, must determine if that waste is a hazardous waste by: determining if the waste is excluded from regulation under 40 C.F.R. § 261.4; determining if the waste is listed as a

hazardous waste in subpart D of 40 C.F.R. part 261; and testing the waste in accordance with the methods set forth in subpart C of 40 C.F.R. Part 261 or an equivalent method approved by the EPA Administrator, or applying knowledge of the hazardous characteristic of the waste in light of the materials or processes used.

39. At the time of the December 7, 2011 CEI, the following solid waste were in storage at the Facility: a tank of parts cleaning solution in the boiler room; and a punctured drum labeled "Tin Lead Bath" located in the back of a warehouse.
40. At all times relevant to this CAFO, including, but not limited to the December 7, 2011 CEI, Respondent was the "generator" of the the material in the tank and drum, identified in Paragraph 39, above, and the tank and drum contained "solid waste" as those terms are defined by 25 Pa Code Section 261a.1, which incorporates by reference 40 C.F.R. § 261.2.
41. At the time of the December 7, 2011 CEI, Respondent had not performed, in accordance with the methods set forth in 25 Pa Code Section 262a.10, which incorporates by reference 40 C.F.R. § 262.11, hazardous waste determinations on the solid waste contents of the tank and drum identified in Paragraph 39, above.
42. On or about December 7, 2011, Respondent violated 25 Pa Code Section 262a.10, which incorporates by reference 40 C.F.R. § 262.11, by failing to perform hazardous waste determinations on the solid waste contents of the tank and drum, identified in Paragraph 39, above.

#### COUNT IV

(Failure to Provide Required Hazardous Waste Personnel Training - 2009)

43. The allegations of Paragraphs 1 through 42 of this Consent Agreement are incorporated by reference as though fully set forth at length.
44. 25 Pa. Code Section 264a.1, which incorporates by reference 40 C.F.R. § 264.16(a) - (c), in pertinent part, requires that facility personnel must: (a) successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of 40 C.F.R. Part 264; (b) complete such program within six months after the date of employment or assignment to a facility; and (c) take part in an annual review of such initial training.
45. For the time period commencing on January 1, 2009 and continuing through December 31, 2009, an employee who was responsible for hazardous waste management activities at Respondent's Facility failed to receive the annual hazardous waste training review required by 25 Pa. Code Section 264a.1, which incorporates by reference 40 C.F.R. § 264.16(c).

46. For the time period commencing on January 1, 2009 and continuing through December 31, 2009, Respondent violated 25 Pa. Code Section 264a.1, which incorporates by reference 40 C.F.R. § 264.16(c), by failing to ensure that an employee of its Facility with hazardous waste management responsibilities receive the required annual hazardous waste training review.

**COUNT V**

(Failure to Provide Required Hazardous Waste Personnel Training - 2010)

47. The allegations of Paragraphs 1 through 46 of this Consent Agreement are incorporated by reference as though fully set forth at length.
48. For the time period commencing on January 1, 2010 and continuing through December 31, 2010, an employee who was responsible for hazardous waste management activities at Respondent's Facility failed to receive the annual hazardous waste training review required by 25 Pa. Code Section 264a.1, which incorporates by reference 40 C.F.R. § 264.16(c).
49. For the time period commencing on January 1, 2010 and continuing through December 31, 2010, Respondent violated 25 Pa. Code Section 264a.1, which incorporates by reference 40 C.F.R. § 264.16(c), by failing to ensure that an employee of its Facility with hazardous waste management responsibilities receive the required annual hazardous waste training review.

**COUNT VI**

(Failure to Provide Required Hazardous Waste Personnel Training - 2011)

50. The allegations of Paragraphs 1 through 49 of this Consent Agreement are incorporated by reference as though fully set forth at length.
51. For the time period commencing on January 1, 2011 and continuing through December 31, 2011, an employee who was responsible for hazardous waste management activities at Respondent's Facility failed to receive the annual hazardous waste training review required by 25 Pa. Code Section 264a.1, which incorporates by reference 40 C.F.R. § 264.16(c).
52. For the time period commencing on January 1, 2011 and continuing through December 31, 2011, Respondent violated 25 Pa. Code Section 264a.1, which incorporates by reference 40 C.F.R. § 264.16(c), by failing to ensure that an employee of its Facility with hazardous waste management responsibilities receive the required annual hazardous waste personnel review.



**COUNT VII**

(Failure to Provide Required Job Description)

53. The allegations of Paragraphs 1 through 52 of this Consent Agreement are incorporated by reference as though fully set forth at length.
54. 25 Pa. Code Section 264a.1, which incorporates by reference 40 C.F.R. § 264.16(d)(1), (2), and (3), requires, in relevant part, that the owner or operator of a hazardous waste storage facility must maintain the following documents and records at the facility: the job title for each position at the facility related to hazardous waste management and the name of the employee filling each job; a written job description for each person with hazardous waste management responsibilities; and a written description of the type and amount of both introductory and continuing training that will be given to each person filling a position listed under 40 C.F.R. § 264.16(d)(1).
55. At the time of the December 7, 2011 CEI, the Facility's operating record did not include job descriptions for four employees who had hazardous waste management responsibilities at the Facility, as required by 25 Pa. Code Section 264a.1 (40 C.F.R. § 265.16(d)(2)).
56. On or about December 7, 2011, Respondent violated 25 Pa. Code Section 264a.1, which incorporates by reference 40 C.F.R. § 264.16(d)(2), by failing to have in its Facility operating record job descriptions for four employees with hazardous waste management responsibilities at the Facility.

**COUNT VIII**

(Failure to Comply with Contingency Plan Requirements)

57. The allegations of Paragraphs 1 through 56 of this Consent Agreement are incorporated by reference as though fully set forth at length.
58. 25 Pa. Code Section 264a.1, which incorporates by reference 40 C.F.R. §§ 264.51 and .52, requires that each owner or operator of a hazardous waste storage facility must have a contingency plan for the facility that is designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil or surface water, and contains the information specified in 40 C.F.R. § 264.52.
59. 25 Pa. Code Section 264a.1, which incorporates by reference 40 C.F.R. 264.52(d), requires that the contingency plan must include, among other things, a list of the "names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator (see [40 C.F.R.] § 264.55), and the list must be kept up to date."
60. At the time of the December 7, 2011 CEI, the Contingency Plan for Respondent's Facility did not identify the name, address and phone numbers for the current emergency

coordinator for the Facility.

61. On or about December 7, 2011, Respondent violated 25 Pa. Code Section 264a.1, which incorporates by reference 40 C.F.R. § 264.52(d), by failing to identify in the Facility's Contingency Plan the name, address and phone numbers of the current emergency coordinator for the Facility.

**COUNT IX**

(Failure to Comply with Universal Waste Labeling/Marking Requirements)

62. The allegations of Paragraphs 1 through 61 of this Consent Agreement are incorporated by reference as though fully set forth at length.
63. 25 Pa. Code Section 266b.1, which incorporates by reference 40 C.F.R. § 273.1(a)(4), provides, in pertinent part, that the requirements for universal waste management set forth in 40 C.F.R. Part 273 apply to, among other things, the management of lamps, as described in 40 C.F.R. § 273.5.
64. 25 Pa. Code Section 266b.1, which incorporates by reference 40 C.F.R. § 273.5(a), provides that the requirements of 40 C.F.R. Part 273 apply to, with exceptions not relevant hereto, lamps as defined by 40 C.F.R. § 273.9.
65. 25 Pa. Code Section 266b.1, which incorporates by reference 40 C.F.R. § 273.9, defines the term "lamp" to mean the bulb or tube portion of an electric lighting device, including, but not limited to, fluorescent lamps.
66. 25 Pa. Code Section 266b.1, which incorporates by reference 40 C.F.R. § 273.9, defines a "small quantity handler of universal waste" as a universal waste handler who does not accumulate 5,000 kilograms or more of universal waste at any time.
67. At all times relevant to this CAFO, including, but not limited to, December 7, 2011, Respondent accumulated at its Facility less than 5,000 kilograms of universal waste and, therefore, was a "small quantity handler of universal waste" as that term is defined by 25 Pa. Code Section 266b.1, which incorporates by reference 40 C.F.R. § 273.9.
68. 25 Pa. Code Section 266b.1, which incorporates by reference 40 C.F.R. § 273.14(e), requires that a small quantity handler of universal waste label or mark lamps or packages or containers of lamps clearly with one of the following phrases: "Universal Waste – Lamp(s)"; "Waste Lamp(s)"; or "Used Lamp(s)."
69. At the time of December 7, 2011 CEI, Respondent had a container (i.e., box) of 8 used lamps in the mezzanine level of the wastewater treatment plant area of the Facility.
70. The 8 used lamps, identified in Paragraph 69, above, qualified as "lamps" as that term is defined by 25 Pa. Code Section 266b.1, which incorporates by reference 40 C.F.R.

§ 273.9.

71. At the time of the December 7, 2011 CEI, the container (i.e., box) holding the 8 used lamps, identified in Paragraph 69, above, was not labeled or marked clearly with one of the following phrases: “Universal Waste – Lamp(s)”; “Waste Lamp(s)”; or “Used Lamp(s),” nor were any of the 8 used lamps labeled or marked with such phrases.
72. On or about December 7, 2011, Respondent violated 25 Pa. Code Section 266b.1, which incorporates by reference 40 C.F.R. § 273.14(e), by having at its Facility a container (i.e., box) of 8 used lamps that was not labeled or marked clearly with one of the following phrases: “Universal Waste – Lamp(s)”; “Waste Lamp(s)”; or “Used Lamp(s),” nor were any of the 8 used lamps labeled or marked with such phrases.

**COUNT X**

(Failure to Comply with Universal Waste Accumulation Date Requirements)

73. The allegations of Paragraphs 1 through 72 of this Consent Agreement are incorporated by reference as though fully set forth at length.
74. 25 Pa. Code Section 266b.1, which incorporates by reference 40 C.F.R. § 273.15(c), requires that a small quantity handler of universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received, by choosing one of the methods set forth in 40 C.F.R. § 273.15(c).
75. At the time of the December 7, 2011 CEI, the container (i.e., box) of 8 used lamps, as identified in Paragraph 69, above, was undated, and Respondent was not able to demonstrate the length of time that the universal waste had been accumulated from the date it became a waste or was received.
76. On or about December 7, 2011, Respondent violated 25 Pa. Code Section 266b.1, which incorporates by reference 40 C.F.R. § 273.15(c), by accumulating at its Facility an undated container of 8 used lamps for which Respondent was unable to demonstrate the length of time that the universal waste had accumulated from the date it became a waste or was received.

**COUNT XI**

(Failure to Contain Universal Lamps Properly)

77. The allegations of Paragraphs 1 through 76 of this Consent Agreement are incorporated by reference as though fully set forth at length.
78. 25 Pa. Code Section 266b.1, which incorporates by reference 40 C.F.R. § 273.13(d) provides, in pertinent part, that a small quantity handler of universal waste must manage lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment, including, making certain that containers or packages of lamps

remain closed.

79. At the time of the December 7, 2011 CEI, the container of 8 used lamps, identified in Paragraph 69, above, was open. Additionally, Respondent had 4 used lamps, one of which was broken, in the mezzanine level of the wastewater treatment plant area of the Facility.
80. On or about December 7, 2011, Respondent violated 25 Pa. Code Section 266b.1, which incorporates by reference 40 C.F.R. § 273.13(d), by having an open container of 8 used lamps at its Facility, and 4 uncontained used lamps, one of which was broken, at the Facility.

#### IV. SETTLEMENT

81. In view of EPA's Findings of Fact and Conclusions of Law, set forth above, Complainant concludes that the Respondent has violated RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, the federal regulations promulgated thereunder, and the authorized PaHWMR.
82. In view of EPA's Findings of Fact and Conclusions of Law, set forth above, Complainant further concludes that the Respondent is liable to the United States for a civil penalty pursuant to RCRA Section 3008(a) and (g), 42 U.S.C. § 6928(a) and (g).
83. Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g), authorize, for violations of any requirement of RCRA Subtitle C, EPA's regulations promulgated thereunder, or any regulation of a state hazardous waste program authorized by EPA, the assessment of a civil penalty of up to \$25,000 per violation, with each day of violation constituting a separate violation. Pursuant to the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. Part 19, as revised (73 Fed. Reg. 75340-46 (December 11, 2008)), violations of RCRA Subtitle C, EPA's regulations promulgated thereunder, or any regulation of a state hazardous waste program authorized by EPA are subject to an increased statutory maximum penalty of \$37,500 per violation, with each day of violation constituting a separate violation.
84. In settlement of the violations alleged against Respondent in EPA's Findings of Fact and Conclusions of Law Section of this Consent Agreement, and in consideration of each provision of this CAFO, Respondent consents to the assessment of a civil penalty in the amount of FORTY-SIX THOUSAND SIX HUNDRED AND SIXTEEN DOLLARS (\$46,616.00) in accordance with the terms set forth below. Such civil penalty shall become due and payable immediately upon Respondent's receipt of a true and correct copy of this CAFO, fully executed by all parties, signed by the Regional Administrator or the Regional Judicial Officer, and filed with the Regional Hearing Clerk. 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 this fully executed CAFO is mailed or hand-delivered to Respondent.

85. The aforesaid settlement amount, set forth above, is appropriate for the violations identified in this CAFO and is based on consideration of a number of factors, including, but not limited to: the statutory factors (i.e., seriousness of the violation and any good faith efforts to comply with applicable requirements) set forth in RCRA Section 3008(a)(3), 42 U.S.C. § 6928(a)(3); and the application of these criteria to the particular facts and circumstances of this case with specific reference to EPA's *RCRA Civil Penalty Policy* (October 1990 and June 2003), and the November 16, 2009 memorandum by EPA Waste and Chemical Enforcement Division Director Rosemarie A. Kelley, entitled *Adjusted Penalty Matrices Based on the 2008 Civil Monetary Penalty Inflation Adjustment Rule*.

86. The civil penalty of FORTY-SIX THOUSAND SIX HUNDRED AND SIXTEEN DOLLARS (\$46,616.00), set forth in Paragraph 84, above, may be paid in three (3) installments with interest at the rate of one per cent (1%) per annum on the outstanding principal balance in accordance with the following schedule:

- a. **1st Payment:** The first payment in the amount of SIXTEEN THOUSAND SIX HUNDRED AND SIXTEEN DOLLARS (\$16,616.00), consisting of a principal payment of \$16,616.00 and an interest payment of \$0.00, shall be paid within thirty (30) days of the date on which this CAFO is mailed or hand-delivered to Respondent;
- b. **2nd Payment:** The second payment in the amount of FIFTEEN THOUSAND SEVENTY-FIVE DOLLARS (\$15,075.00), consisting of a principal payment of \$15,000.00 and an interest payment of \$75.00, shall be paid within ninety (90) days of the date on which this CAFO is mailed or hand-delivered to Respondent; and
- c. **3rd Payment:** The third payment in the amount of FIFTEEN THOUSAND THIRTY-SEVEN DOLLARS AND FIFTY CENTS (\$15,037.50), consisting of a principal payment of \$15,000.00 and an interest payment of \$37.50, shall be paid within one hundred eighty (180) days of the date on which this CAFO is mailed or hand-delivered to Respondent.

Pursuant to the above schedule, Respondent will remit total principal payments for the civil penalty in the amount of FORTY-SIX THOUSAND SIX HUNDRED AND SIXTEEN DOLLARS (\$46,616.00), and total interest payments in the amount of ONE HUNDRED AND TWELVE DOLLARS AND FIFTY CENTS (\$112.50).

87. If Respondent fails to make one of the installment payments in accordance with the schedule set forth in Paragraph 86, above, the entire unpaid balance of the penalty and all accrued interest shall be due immediately upon such failure, and Respondent shall immediately pay the entire remaining balance of the civil penalty along with any interest

that has accrued up to the time of such payment. In addition, Respondent shall be liable for and shall pay administrative handling charges and late payment penalty charges as described, below, in the event of such failure or default.

88. Respondent may, at any time after commencement of payments under the installment schedule, elect to pay the entire principal balance, together with accrued interest to the date of such fully payment.
89. Respondent shall pay the civil penalty amount referenced above, plus any interest, administrative fees, and late payment penalties owed, 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 Docket Number of this action, *i.e.*, RCRA-03-2015-0033;
  - 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 to:  
  
U.S. Environmental Protection Agency  
Fines 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 for delivery 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 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 No. = 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/](http://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://www.epa2.gov/financial/makeapayment>

- j. Payment by Respondent shall reference Respondent's name and address, and the EPA Docket Number of this CAFO.

A copy of Respondent's check or a copy of Respondent's electronic fund transfer

shall be sent simultaneously to:

Joseph J. Lisa  
Senior Assistant Regional Counsel  
U.S. EPA, Region III (3RC30)  
1650 Arch Street  
Philadelphia, PA 19103-2029, and

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

90. 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 as specified herein shall result in the assessment of late payment charges including, interest, penalties and/or administrative costs of handling delinquent debts.
91. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a true and correct copy of this CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).
92. 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 – Case 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 additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
93. 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).
94. Respondent agrees not to deduct for federal tax purposes the civil monetary penalty assessed in this CAFO.



**Certification of Compliance**

95. The individual who signs this Consent Agreement on behalf of Respondent certifies that the Respondent's Facility referred to in this Consent Agreement is currently in compliance with all applicable requirements of RCRA Subtitle C and the authorized PaHWMR.

**Other Applicable Laws**

96. Nothing in this CAFO shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations.

**Reservation of Rights**

97. This Consent Agreement and the accompanying Final Order resolve only EPA's claims for civil penalties for the specific violations of RCRA Subtitle C and the authorized PaHWMR alleged herein. 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. 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, federal regulations or authorized state regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its filing with the Regional Hearing Clerk.

**Full and Final Satisfaction**

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

**Parties Bound**

99. Consent Agreement and the accompanying 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 party represented to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and the accompanying Final Order.

**Effective Date**

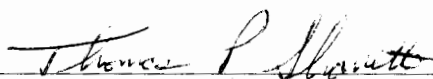
100. The effective date of this Consent Agreement and the accompanying Final Order is the date on which the Final Order, signed by the Regional Administrator of EPA, Region III, or his designee, the Regional Judicial Officer, is filed with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

**Entire Agreement**

101. This Consent agreement and the accompanying Final Order constitute the entire agreement and understanding between the parties regarding settlement of all claims 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 CAFO.

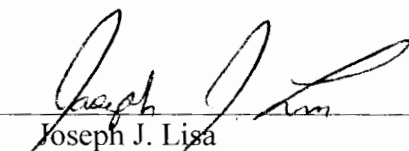
**For Respondent:**

Date: 12/12/2014

By:   
Thomas Sharretts  
Chief Executive Officer  
Sharretts Plating Co., Inc.

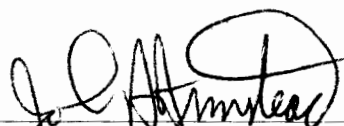
**For Complainant:**

Date: 1-7-2015

By:   
Joseph J. Lisa  
Senior Assistant Regional Counsel

Accordingly, I hereby recommend that the Regional Administrator, or his designee, the Regional Judicial Officer, issue the attached Final Order.

Date: 1.22.14

By:   
John A. Armstead, Director  
Land and Chemicals Division

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

**In the Matter of:**

**Sharretts Plating Co., Inc.  
3315 Connelly Road  
Emigsville, Pennsylvania 17318,**

**Respondent.**

**Docket No. RCRA-03-2015-0033**

**FINAL ORDER**

**Proceeding under RCRA Section  
3008(a)(1) and (g), 42 U.S.C.  
§ 6928(a)(1) and (g)**

**FINAL ORDER**


Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III, and Respondent Sharretts Plating Co., 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 (with specific reference to Sections 22.1(a)(4), 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

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

**NOW, THEREFORE, PURSUANT TO** Section 3008(a)(1) and (g) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6928(a)(1) and (g), and the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty of **FORTY-SIX THOUSAND SIX HUNDRED SIXTEEN DOLLARS (\$46,616.00)**, plus any applicable interest, as specified in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

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

Date: 02-03-2015

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