



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

CERTIFIED MAIL – RETURN RECEIPT

JUN 18 2019

John A. Heer, Esq.
Counsel
McDonald Hopkins LLC
600 Superior Avenue, East
Suite 2100
Cleveland, Ohio 44114

Re: Consent Agreement and Final Order - Docket No. RCRA-04-2019-4007(b)
Purecoat International, LLC
EPA ID. No.: FLD980839013

Dear Mr. Heer:

Enclosed please find a copy of the executed Consent Agreement and Final Order (CA/FO) as filed with the Regional Hearing Clerk in the above-referenced matter. Please note that payment of the civil penalty is due within thirty (30) days of the effective date of the CA/FO, which is the date the CA/FO is filed with the Regional Hearing Clerk.

Thank you for your assistance in resolving this matter. If you have any questions or concerns, please convey them to Mr. Mallick, of my staff, at (404) 562-8594 or at mallick.parvez@epa.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Larry L. Lamberth".

Larry L. Lamberth
Chief
Chemical Safety and Land Enforcement Branch
Enforcement and Compliance Assurance Division

Enclosure

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)	DOCKET NO.: RCRA-04-2019-4007(b)
)	
Purecoat International, LLC)	
3301 Electronics Way)	Proceeding Under Section 3008(a) of the
West Palm Beach, Florida 33407)	Resource Conservation and Recovery Act,
)	42 U.S.C. § 6928(a)
EPA ID No.: FLD980839013)	
)	
Respondent)	
_____)	

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CONSENT AGREEMENT

I. NATURE OF THE ACTION

1. This is a civil administrative enforcement action, pursuant to Section 3008(a) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a), ordering compliance with the requirements of the Chapter 403 of the Florida Statutes (Fla. Stat.), Fla. Stat. §§ 403.702 *et seq.* [Subtitle C of RCRA, 42 U.S.C. §§ 6921-6939g], and the regulations promulgated pursuant thereto and set forth at Rule 62-730 *et seq.* of the Florida Administrative Code Annotated (Fla. Admin. Code Ann.) [Title 40 of the Code of Federal Regulations (C.F.R.), Parts 260 through 270, 273, & 279]. This action seeks the imposition of civil penalties pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for violations of Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] and Fla. Admin. Code Ann. r. 62-730 *et seq.* [40 C.F.R. Parts 260 through 270].
2. The *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, which govern this action and are promulgated at 40 C.F.R. Part 22, provide that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order (CA/FO). 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).
3. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to settle this action. Accordingly, before any testimony has been taken upon the pleadings and without any admission of violation or adjudication of any issue of fact or law and in accordance with 40 C.F.R. § 22.13(b), Complainant and Respondent have agreed to the execution of this CA/FO, and Respondent hereby agrees to comply with the terms of this CA/FO.

II. THE PARTIES

4. Complainant is the Chief, Chemical Safety and Land Enforcement Branch, United States Environmental Protection Agency (EPA) Region 4. Complainant is authorized to issue the instant CA/FO pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and applicable delegations of authority.
5. Respondent is Purecoat International, LLC, a corporation organized under the laws of Florida. Respondent is the owner and operator of a metal finishing facility located at 3301 Electronics Way, West Palm Beach, Florida 33407 (the Facility).

III. PRELIMINARY STATEMENTS

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the State of Florida (State) has received final authorization to carry out a hazardous waste program in lieu of the federal program set forth in RCRA. The requirements of the Florida authorized program are found at Fla. Stat. §§ 403.702 *et seq.* and Fla. Admin. Code Ann. r. 62-730.
7. Pursuant to Section 3006(g) of RCRA, 42 U.S.C. § 6926(g), the requirements established by the Hazardous and Solid Waste Amendments of 1984 (HSWA), Pub. L. 98-616, are immediately effective in all states regardless of their authorization status and are implemented by the EPA until a state is granted final authorization with respect to those requirements. Florida has received final authorization for certain portions of HSWA, including those recited herein.
8. Although the EPA has granted the State authority to enforce its own hazardous waste program, the EPA retains jurisdiction and authority to initiate an independent enforcement action pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2). This authority is exercised by the EPA in the manner set forth in the Memorandum of Agreement between the EPA and the State.
9. As the State's authorized hazardous waste program operates in lieu of the federal RCRA program, the citations for the violations of those authorized provisions alleged herein will be to the authorized State program; however, for ease of reference, the federal citations will follow in brackets.
10. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), Complainant has given notice of this action to the State before issuance of this CA/FO.
11. Section 403.721 of the Florida Statutes, Fla. Stat. § 403.721 [Section 3002(a) of RCRA, 42 U.S.C. § 6922(a)], requires the promulgation of standards applicable to generators of hazardous waste. The implementing regulations for these standards are found at Fla. Admin. Code Ann. r. 62-730.160 [40 C.F.R. Part 262 (2016)].
12. Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925], sets forth the requirement that a facility treating, storing, or disposing of hazardous waste must have a permit or interim status. The implementing regulations for this requirement are found at Fla. Admin. Code Ann. r. 62-730.180(1) (permitted) and Fla. Admin. Code Ann. r. 62-730.180(2) (interim status) [40 C.F.R. Parts 264 (permitted) and 265 (interim status)].

13. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.2], a “solid waste” is any discarded material that is not otherwise excluded from the regulations. A discarded material includes any material that is abandoned by being stored in lieu of being disposed.
14. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.3], a solid waste is a “hazardous waste” if it meets any of the criteria set forth in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.3(a)(2)] and is not otherwise excluded from regulation as a hazardous waste by Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.4(b)].
15. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. §§ 261.3(a)(2)(i) and 261.20], solid wastes that exhibit any of the characteristics identified in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.21-24] are characteristic hazardous waste and are provided with the EPA Hazardous Waste Numbers D001 through D043.
16. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.20 and 261.21], a solid waste that exhibits the characteristic of ignitability is a hazardous waste and is identified with the EPA Hazardous Waste Number D001.
17. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.20 and 261.22], a solid waste that exhibits the characteristic of corrosivity is a hazardous waste and is identified with the EPA Hazardous Waste Number D002.
18. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.20 and 261.23], a solid waste that exhibits the characteristic of reactivity is a hazardous waste and is identified with the EPA Hazardous Waste Number D003.
19. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for cadmium is a hazardous waste identified with the EPA Hazardous Waste Number D006.
20. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for chromium is a hazardous waste identified with the EPA Hazardous Waste Number D007.
21. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for lead is a hazardous waste identified with the EPA Hazardous Waste Number D008.
22. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for silver is a hazardous waste identified with the EPA Hazardous Waste Number D011.
23. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.3(a)(2)(ii) and 261.30], a solid waste is a listed “hazardous waste” if it is listed Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. Part 261, Subpart D].
24. Listed hazardous wastes include the F-Listed wastes from nonspecific sources identified in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.31(a)], including certain spent non-halogenated solvents (F003), certain other spent non-halogenated solvents (F005), wastewater

treatment sludges from electroplating operations (F006), and spent cyanide plating bath solutions from electroplating operations (F007).

25. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], “universal waste” means any of the hazardous wastes that are managed under the universal waste requirements of Fla. Admin. Code Ann. r. 62-730.185(1) [40 C.F.R. Part 273].
26. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], a “universal waste handler” means a generator of universal waste.
27. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], a “person” includes a corporation.
28. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], an “owner” is “the person who owns a facility or part of a facility” and an “operator” is “the person responsible for the overall operation of a facility.”
29. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], a “facility” includes “all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste.”
30. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], a “generator” is defined as any person, by site, whose act or process produces hazardous waste identified or listed in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. Part 261], or whose act first causes a hazardous waste to become subject to regulation.
31. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], a “large quantity generator” is a generator who generates greater than or equal to 1,000 kilograms (2200 lbs) of non-acute hazardous waste in a calendar month.
32. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.11], a person who generates a solid waste, as defined in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.2], must determine if that waste is a hazardous waste following the methods articulated in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.11].
33. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(c)(1) (2016)], a generator may accumulate as much as 55 gallons of hazardous waste in containers at or near the point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or without having interim status, as required by Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925], and without complying with Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a) (2016)], provided that the generator complies with the satellite accumulation area conditions listed in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(c)(1)(i)-(ii) (2016)] (hereinafter referred to as the “SAA Permit Exemption”).
34. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(c)(1)(i) (2016)], which incorporates Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 265.173(a)], and is a condition of the SAA Permit Exemption, a generator is required to keep containers of hazardous waste closed when waste is not being added or removed.

35. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(4) (2016)], a generator of 1,000 kilograms or greater of hazardous waste in a calendar month is a large quantity generator (LQG) and may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, as required by Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925], provided that the generator complies with the conditions listed in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34 (a)(1)-(4) (2016)] (hereinafter referred to as the “LQG Permit Exemption”).
36. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(4) (2016)] which incorporates Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 265.31], and is a condition of the LQG Permit Exemption, facilities must be 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.
37. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(4) (2016)], which incorporates Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 265.16(d)(3) and (d)(4)], and is a condition of the LQG Permit Exemption, the owner or operator must maintain a written description of the type and amount of both introductory and continuing training that will be given to each person involved in hazardous waste management at the facility and the owner or operator must maintain records that document that the required training has been given to, and completed by, such personnel.
38. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(4) (2016)], which incorporates Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 265.52], and is a condition of the LQG Permit Exemption, a generator must have a contingency plan that, among other things: (a) describes the actions facility personnel must take in response to fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water at the facility; (b) includes other information not at issue in this CA/FO; (c) describes arrangements agreed to by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services (including evidence that the authorities have been notified of such arrangements); (d) lists the names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator; (e) lists all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment), where this equipment is required, and includes the location and a physical description of each item on the list; and (f) includes an evacuation plan for facility personnel, including evacuation routes. *See also* Contingency Plan Guidance, Florida Department of Environmental Protection (Nov. 18, 2004).
39. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.41(a) (2016)], a generator who is a LQG for at least one month of an odd-numbered year (reporting year) who ships any hazardous waste off-site to a treatment, storage or disposal facility within the United States must complete and submit EPA Form 8700-13 A/B (Biennial Report) to the Florida Department of Environmental Protection (FDEP) by March 1 of the following even-numbered year and must cover generator activities during the previous year.
40. Pursuant to Fla. Admin. Code Ann. r. 62-730.185(1) [40 C.F.R. § 273.9], a “small quantity handler of universal waste” (SQHUW) is a universal waste handler who does not accumulate

5,000 kilograms or more of universal waste (batteries, pesticides, mercury-containing equipment, or lamps, calculated collectively) at any time.

41. Pursuant to Fla. Admin. Code Ann. r. 62-730.185(1) [40 C.F.R. §§ 273.9 and 273.5] “universal waste lamp” means the bulb or tube portion of an electric lighting device. A lamp is specifically designed to produce radiant energy, most often in the ultraviolet, visible, and infra-red regions of the electromagnetic spectrum. Examples of common universal waste lamps include, but are not limited to, fluorescent, high intensity discharge, neon, mercury vapor, high pressure sodium, and metal halide lamps.
42. Pursuant to Fla. Admin. Code Ann. rr. 62-730.185(1) and 62-737.400(5)(b) [40 C.F.R. § 273.14(e)], a SQHUW must label or mark each universal waste lamp or container of universal waste lamps clearly with one of the following phrases: “Universal Waste-Lamp(s),” or “Waste Lamp(s),” or “Used Lamps” or “Crushed Mercury Lamps.”
43. Pursuant to Fla. Admin. Code Ann. rr. 62-730.185(1) and 62-737.400(7) [40 C.F.R. § 273.15(a) and (c)], a SQHUW may accumulate universal waste no longer than one year and must to be able to demonstrate the length of time that the universal waste has accumulated from the date that it became a waste or was received.
44. Pursuant to Fla. Admin. Code Ann. rr. 62-730.185(1) and 62-737.400(5) [40 C.F.R. § 273.13(d)], a SQHUW must manage universal waste lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment. Additionally, pursuant to Fla. Admin. Code Ann. rr. 62-730.185(1) and 62-737.400(5) [40 C.F.R. § 273.13(d)(1)], containers of universal waste lamps must remain closed.
45. Pursuant to Fla. Admin. Code Ann. r. 62-730.185(1) [40 C.F.R. § 273.17(a)], a SQHUW must immediately contain all releases of universal waste and other residues from universal wastes.

IV. EPA ALLEGATIONS AND DETERMINATIONS

46. Respondent is a “person” as defined in Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10].
47. Respondent is the “owner/operator” of a “facility” located at 3301 Electronics Way, West Palm Beach, Florida, as those terms are defined in Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10].
48. Respondent is a “generator” of “hazardous waste” as those terms are defined in Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10] and Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.3].
49. Respondent’s business specializes in metal finishing for the aerospace, electronics, transportation, and microwave industries. Respondent’s Facility consists of a gold/silver plating area, a tin/lead plating area, a Nibron plating area, a nickel plating area, an electro-less nickel plating area, a spray paint booth area, a waste water treatment area, and a Hazardous Waste 90-Day Storage Areas (Interior and Outdoor).

50. On October 19, 2016, Respondent notified the FDEP that it is a “large quantity generator” of hazardous waste and a “small quantity handler of universal waste” by submitting a Hazardous Waste Generator Notification form (EPA Form 8700-12FL).
51. Respondent, as result of its notification, practices, and operations at the Facility, is and was a LQG, as that term is defined in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a) (2016)], at all times relevant to this CA/FO.
52. Respondent, as result of its practices and operations at the Facility, is and was a SQHUW, as that term is defined in Fla. Admin. Code Ann. r. 62-730.185(1) [40 C.F.R. § 273.9], at all times relevant to this CA/FO.
53. On February 8, 2017, inspectors with the EPA and with the FDEP (the “inspectors”) conducted a compliance evaluation inspection (CEI) at Respondent’s Facility. EPA’s findings from the CEI were documented in a report mailed to Respondent, dated June 27, 2018.
54. At the time of the CEI, the inspectors observed that Respondent was storing containers of expired product in an area labeled “expired chemistry do not use,” in the Interior Hazardous Waste 90-Day Storage Area, including stripper, plating chemicals, brightener, wetting agents/chemicals, salts, trichloroethane, solderon acid, and sodium hydroxide. The containers of these expired products ranged in size from approximately one quart to 55 gallons, and the expiration dates dated back to 2014. In addition, inspectors observed two 55-gallon containers of isopropanol and one 55-gallon container of Luster-on RP #935 covered in vines and rust, stored in the Outdoor 90-Day Hazardous Waste Storage Area.
55. At the time of the CEI, the inspectors found that Respondent had failed to conduct a waste determination on the containers of solid waste listed above, in paragraph 54. Respondent later disposed of them as hazardous waste.
56. The EPA therefore alleges that Respondent violated Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.11] by failing to make a hazardous waste determination on solid waste generated at its Facility.
57. At the time of the CEI, the inspectors observed the following hazardous waste satellite accumulation containers that were open while waste was not being added or removed: a cubic yard box of filter press waste sludge (F006) in the wastewater treatment plant area; a cubic yard box of filter press waste sludge (F006) in the cyanide destruct area; one 55-gallon container of “Masking Waste Only” waste (D001, F003, D006, D007, D008) and one 55-gallon container of “Vapor Degreaser Filter” waste (D001, F005) in the degreasing area; and numerous 55-gallon containers of pyro-copper filters (D003, F007), nickel sulfamate filters (D003), copper cyanide filters (D003, F007), and silver strike wastes (D002, D011) in the plating lines areas.
58. The EPA therefore alleges Respondent violated Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the SAA Permit Exemption set forth in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(c)(1)(i) (2016)] by not complying with the container management requirements of Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 265.173(a)].

59. At the time of the CEI, the inspectors observed Respondent's wastewater/sludge conveying ancillary equipment, pipes, and tanks rusting and leaking F006 sludge from the equipment to the floor in the main waste water treatment area and also in the cyanide destruct waste water treatment area. In the plating lines area, inspectors observed cracks in the containment floor, and what appeared to be plating waste leaking from the secondary containment.
60. The EPA therefore alleges Respondent violated Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(4) (2016)], by not complying with the maintenance and operation requirements of Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 265.31].
61. At the time of the inspection, the inspectors found Respondent did not have training records for those employees that manage hazardous waste. Respondent subsequently provided EPA with its training records, but the records provided failed to include a written description of the type and amount of both introductory and continuing training that was given.
62. The EPA therefore alleges Respondent violated Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(4) (2016)], by not complying with the personnel training requirements of Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 265.16(d)(3) and (d)(4)].
63. At the time of the CEI, upon review of the Facility's contingency plan, the inspectors observed that the Respondent failed to include the following in its contingency plan: an explosion scenario (i.e. a description of the actions Facility personnel must take in response to an explosion); notification letters to outside emergency response agencies; the emergency coordinator's contact phone number and address; the location of fire extinguishers and spill control equipment; and an evacuation plan/map with evacuation routes.
64. The EPA therefore alleges Respondent violated Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(4) (2016)], by not complying with the contingency plan requirements of Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 265.52(a), (c), (d), (e), and (f)].
65. After the CEI, EPA reviewed Respondent's Biennial Reports and found that the Respondent had submitted its 2015 and 2017 Biennial Reports (BRs), among others, to FDEP after the March 1 deadline of the following even-numbered year.
66. The EPA therefore alleges that Respondent violated Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.41(a)] by failing to timely submit its BRs.
67. At the time of the CEI, the inspectors observed that Respondent had failed to mark a 55-gallon universal waste lamp crusher container in the maintenance area with the words "Universal Waste-Lamp(s)," "Waste Lamp(s)," "Used Lamps," or "Crushed Mercury Lamps."

68. The EPA therefore alleges that Respondent Fla. Admin. Code Ann. rr. 62-730.185(1) and 62-737.400(5)(b) [40 C.F.R. § 273.14(e)], by failing to label or mark each universal waste lamp or container of universal waste lamps clearly with one of the following phrases: "Universal Waste-Lamp(s)," "Waste Lamp(s)," "Used Lamps" or "Crushed Mercury Lamps."
69. At the time of the CEI, the inspectors observed that Respondent had failed to mark the 55-gallon universal waste lamp crusher container with a start accumulation date to demonstrate the length of time the container had been accumulating universal waste lamps.
70. The EPA therefore alleges that Respondent violated Fla. Admin. Code Ann. rr. 62-730.185(1) and 62-737.400(7) [40 C.F.R. § 273.15(a) and (c)], by failing to demonstrate the length of time that the Facility's universal waste had been accumulated from the date that the universal waste became a waste or was received.
71. At the time of the CEI, the inspectors observed that Respondent had failed to secure the metal band around the lid of the 55-gallon universal waste lamp crusher container and had failed to attach the mercury vapors filter to the lamp crusher such that the lamp crusher was not closed. The inspectors also observed remnants of broken universal waste lamps on the floor surrounding the 55-gallon universal waste lamp crusher container
72. The EPA therefore alleges that Respondent violated Fla. Admin. Code Ann. rr. 62-730.185(1) and 62-737.400(5) [40 C.F.R. § 273.13(d) and (d)(1)], by failing to keep the 55-gallon universal waste lamp crusher container closed and by failing to prevent releases of universal waste lamps to the environment.
73. The EPA therefore also alleges that Respondent violated Fla. Admin. Code Ann. r. 62-730.185(1) [40 C.F.R. § 273.17(a)], by failing to immediately contain releases of spent universal waste lamps and other residues to the environment.

V. TERMS OF AGREEMENT

Based on the foregoing Preliminary Statements, Allegations and Determinations, the parties agree to the following:

74. For the purposes of this CA/FO, Respondent admits the jurisdictional allegations set out in the above paragraphs pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928.
75. Respondent neither admits nor denies the factual allegations and determinations set out in this CA/FO.
76. Respondent waives any right to contest the allegations and its right to appeal the proposed Final Order accompanying the Consent Agreement.
77. Respondent consents to the issuance of this specified compliance order.
78. Respondent consents to the conditions specified in this CA/FO.

79. Respondent agrees that this CA/FO states a claim upon which relief may be granted against Respondent.
80. Respondent acknowledges that this CA/FO constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement actions.
81. Respondent waives its right to challenge the validity of this CA/FO and the settlement of the matters addressed in this CA/FO based on any issue related to the Paperwork Reduction Act, 44 U.S.C. § 3501 *et seq.*
82. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to EPA officials where the purpose of such discussion, memorandum, or communication is to persuade such official to accept and issue this CA/FO.
83. Respondent waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CA/FO, including any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.
84. Respondent waives any rights it may possess at law or in equity to challenge the authority of EPA to bring a civil action in a United States District Court to compel compliance with the CA/FO, and to seek an additional penalty for such noncompliance, and agrees that federal law shall govern in any such civil action.
85. The parties agree that the settlement of this matter is in the public interest and that this CA/FO is consistent with the applicable requirements of RCRA.
86. Respondent, by signing this CA/FO, certifies that Respondent is currently in compliance with RCRA and the authorized State hazardous waste program.
87. The parties agree that compliance with the terms of this CA/FO shall resolve the violations alleged and the facts stipulated to in this CA/FO.
88. Each party will pay its own costs and attorneys' fees.

VI. PAYMENT OF CIVIL PENALTY

89. Respondent consents to the payment of a civil penalty, which was calculated in accordance with RCRA, in the amount of **EIGHTY-ONE THOUSAND TWO HUNDRED DOLLARS exactly (\$81,200.00)**, which is to be paid within thirty (30) calendar days of the effective date of this CA/FO.
90. Payment shall be made by cashier's check, certified check, by electronic funds transfer (EFT), or by Automated Clearing House (ACH) (also known as REX or remittance express). If paying by check, the check shall be payable to: **Treasurer, United States of America**, and the Facility name and docket number for this matter shall be referenced on the face of the check. If Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

United States Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

If Respondent sends payment by non-U.S. Postal express mail delivery, the payment shall be sent to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, Missouri 63101
(314) 425-1818

If paying by EFT, Respondent shall transfer the payment to:

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

If paying by ACH, Respondent shall remit payment to:

US Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking
Physical location of US Treasury facility:
5700 Rivertech Court
Riverdale, Maryland 20737
Contact: Craig Steffen, (513) 487-2091
REX (Remittance Express): 1-866-234-5681

91. Respondent shall submit a copy of the payment to the following individuals:

Regional Hearing Clerk
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

And to:

Parvez Mallick
Environmental Engineer
Land, Asbestos and Lead Section
Chemical Safety and Land Enforcement Branch
Enforcement and Compliance Assurance Division
US EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
mallick.parvez@epa.gov
(404) 562-8594

92. If Respondent fails to remit the civil penalty as agreed to herein, the EPA is required to assess interest and penalties on debts owed to the United States and a charge to cover the costs of processing and handling the delinquent claim. Interest, at the statutory judgment rate provided for in 31 U.S.C. § 3717, will therefore begin to accrue on the civil penalty if not paid within 30 calendar days after the effective date of this Consent Agreement or, if paying in installments, not paid in accordance with the installment schedule provided above. Pursuant to 31 U.S.C. § 3717, Respondent must pay the following amounts on any amount overdue:
1. Interest. Any unpaid portion of a civil penalty or stipulated penalty must bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Interest will therefore begin to accrue on a civil penalty or stipulated penalty if it is not paid by the last date required. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 4 C.F.R. § 102.13(c).
 2. Monthly Handling Charge. Respondent must pay a late payment handling charge of fifteen dollars (\$15.00) on any late payment, with an additional charge of fifteen dollars (\$15.00) for each subsequent thirty (30) calendar-day period over which an unpaid balance remains.
 3. Non-Payment Penalty. On any portion of a civil penalty or a stipulated penalty more than ninety (90) calendar days past due, Respondent must pay a non-payment penalty of six percent (6%) per annum, which will accrue from the date the penalty payment became due and is not paid. 31 U.S.C. § 3717(e)(2). This non-payment penalty is in addition to charges which accrue or may accrue under subparagraphs (a) and (b).
93. Penalties paid pursuant to this CA/FO are not deductible for federal purposes under 26 U.S.C. § 162(f).

VII. PARTIES BOUND

94. This CA/FO shall be binding on Respondent and its successors and assigns. Respondent shall cause its officers, directors, employees, agents, and all persons, including independent contractors, contractors, and consultants acting under or for Respondent, to comply with the provisions hereof in connection with any activity subject to this CA/FO.

95. No change in ownership, partnership, corporate or legal status relating to the Facility will in any way alter Respondent's obligations and responsibilities under this CA/FO.
96. The undersigned representative of Respondent hereby certifies that she or he is fully authorized to enter into this CA/FO and to execute and legally bind Respondent to it.

VIII. RESERVATION OF RIGHTS

97. Notwithstanding any other provision of this CA/FO, an enforcement action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should the EPA find that the handling, storage, treatment, transportation, or disposal of solid waste or hazardous waste at Respondent's Facility may present an imminent and substantial endangerment to human health or the environment.
98. Complainant reserves the right to take enforcement action against Respondent for any future violations of RCRA and the implementing regulations and to enforce the terms and conditions of this CA/FO.
99. Except as expressly provided herein, nothing in this CA/FO shall constitute or be construed as a release from any civil or criminal claim, cause of action, or demand in law or equity for any liability Respondent may have arising out of, or relating in any way to, the storage, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from Respondent's Facility.

IX. OTHER APPLICABLE LAWS

100. All actions required to be taken pursuant to this CA/FO shall be undertaken in accordance with the requirements of all applicable local, state, and Federal laws and regulations. Respondent shall obtain or cause its representatives to obtain all permits and approvals necessary under such laws and regulations.

X. SERVICE OF DOCUMENTS

101. A copy of any documents that Respondent files in this action shall be sent to the following attorney who represents EPA in this matter and who is authorized to receive service for the EPA in this proceeding:

Mairose Pratt
Associate Regional Counsel
RCRA/FIFRA/TSCA Law Office
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
(404) 562-9023

102. A copy of any documents that Complainant files in this action shall be sent to the following individuals who represents Respondent in this matter and who are authorized to receive service for Respondent in this proceeding:

George S. Bognar
President
Purecoat International, LLC
3301 Electronics Way
West Palm Beach, Florida 33407-4636

And to:

John Heer
Counsel
McDonald Hopkins LLC
600 Superior Avenue
Suite 2100
Cleveland, OH 44114

XI. SEVERABILITY

103. It is the intent of the parties that the provisions of this CA/FO are severable. If any provision or authority of this CA/FO or the application of this CA/FO to any party or circumstances is held by any judicial or administrative authority to be invalid or unenforceable, the application of such provisions to other parties or circumstances and the remainder of the CA/FO shall remain in force and shall not be affected thereby.

XII. EFFECTIVE DATE

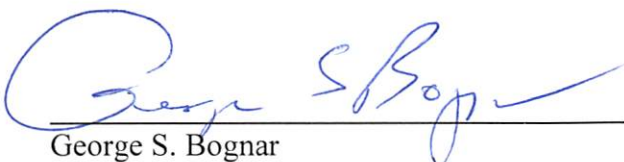
104. The effective date of this CA/FO shall be the date on which the CA/FO is filed with the Regional Hearing Clerk.

**[Remainder of this page intentionally left blank.
Respondent and Complainant will sign on the following page.]**

In the matter of Purecoat International, LLC, Docket No. RCRA-04-2019-4007(b):

AGREED AND CONSENTED TO:


Purecoat International, LLC

By: 

George S. Bognar
President
Purecoat International, LLC
3301 Electronics Way
West Palm Beach, Florida 33407-4636

Dated: 5/2/19

United States Environmental Protection Agency

By: 

Larry L. Lamberth, Chief
Chemical Safety and Land Enforcement Branch

Dated: 06/13/19

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)	DOCKET NO.: RCRA-04-2019-4007(b)
)	
Purecoat International, LLC)	
3301 Electronics Way)	Proceeding Under Section 3008(a) of the
West Palm Beach, Florida 33407)	Resource Conservation and Recovery Act,
)	42 U.S.C. § 6928(a)
EPA ID No.: FLD980839013)	
)	
Respondent)	
_____)	

FINAL ORDER

The foregoing Consent Agreement is hereby approved, ratified and incorporated by reference into this Final Order in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22. The Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

BEING AGREED, IT IS SO ORDERED this 17th day of June, 2019.

BY: Tanya Floyd
Tanya Floyd
Regional Judicial Officer
EPA Region 4

CERTIFICATE OF SERVICE

I hereby certify that I have this day filed the original and a true and correct copy of the foregoing Consent Agreement and the attached Final Order (CA/FO), *In the Matter of Purecoat International, LLC, Docket Number: RCRA-04-2019-4007(b)*, and have served the parties listed below in the manner indicated:

Parvez Mallick
Environmental Engineer
Land, Asbestos and Lead Section
Enforcement and Compliance Assurance Division
US EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

(Via EPA's electronic mail)

Quantindra Smith
Targeting, Data & Measures Office
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

(Via EPA's electronic mail)

Marirose Pratt
Associate Regional Counsel
Office of RCRA, FIFRA, TSCA Legal Support
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
(404) 562-9023

(Via EPA's electronic mail)

John Heer
Counsel
McDonald Hopkins LLC
600 Superior Avenue
Suite 2100
Cleveland, OH 44114

(Via Certified Mail-Return Receipt Requested)

Date: 6/18/19



Patricia A. Bullock
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
(404) 562-9511