

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

In the Matter of:	)	Docket No. RCRA-05-2022-0017
	)	
Pamarco Global Graphics, Incorporated	)	Proceeding to Commence and Conclude
Batavia, Illinois,	)	an Action to Assess a Civil Penalty
	)	Under Section 3008(a) of the Resource
	)	Conservation and Recovery Act,
Respondent.	)	42 U.S.C. § 6928(a)
_____	)	

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 3008(a) of the Solid Waste Disposal Act, as amended, also known as the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a), and Sections 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules) as codified at 40 C.F.R. Part 22.

2. The Complainant is the Director of the Enforcement and Compliance Assurance Division, United States Environmental Protection Agency (U.S. EPA), Region 5.

3. U.S. EPA provided notice of commencement of this action to the State of Illinois pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

4. Respondent is Pamarco Global Graphics, Inc., a corporation doing business in the State of Illinois.

5. Where the parties agree to settle one or more causes of action before the filing of a

complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

6. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

7. Respondent consents to the assessment of the civil penalty specified in this CAFO, and to the terms of this CAFO.

#### **Jurisdiction and Waiver of Right to Hearing**

8. Jurisdiction for this action is conferred upon U.S. EPA by Sections 3006 and 3008 of RCRA, 42 U.S.C. §§ 6926 and 6928.

9. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

10. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

#### **Statutory and Regulatory Background**

11. U.S. EPA has promulgated regulations, codified at 40 C.F.R. Parts 260 through 279, governing generators and transporters of hazardous waste and facilities that treat, store, and dispose of hazardous waste pursuant to Sections 3001 – 3007 of RCRA, 42 U.S.C. §§ 6921 – 6927.

12. Pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, the Administrator of U.S. EPA may authorize a state to administer the RCRA hazardous waste program in lieu of the federal program when the Administrator finds that the state program meets certain conditions.

13. Any violation of regulations promulgated pursuant to Subtitle C (Sections 3001-3023 of RCRA, 42 U.S.C. §§ 6921-6939e) or any state provision authorized pursuant to Section 3006

of RCRA constitutes a violation of RCRA, subject to the assessment of civil penalties and issuance of compliance orders as provided in Section 3008 of RCRA, 42 U.S.C. § 6928.

14. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of U.S. EPA granted the State of Illinois final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program effective January 31, 1986. 51 Fed. Reg. 3778 (January 31, 1986).

15. Under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), U.S. EPA may issue an order assessing a civil penalty for any past or current violation, requiring compliance immediately or within a specified period of time, or both. The Administrator of U.S. EPA may assess a civil penalty of up to \$99,681 per day for each violation of Subtitle C of RCRA that occurred after November 2, 2015, pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and 40 C.F.R. Part 19.

#### **Factual Allegations and Alleged Violations**

16. Respondent is a "person" as defined by 35 Ill. Adm. Code § 720.110, 40 C.F.R. § 260.10, and Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

17. At all times relevant to this CAFO, Respondent was the "operator," as that term is defined under Ill. Adm. Code § 720.110 and 40 C.F.R. § 260.10, at a facility located at 125 Flinn Street, Batavia, Illinois (Facility).

18. At all times relevant to this CAFO, the Facility consisted of land and structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste.

19. The Facility is a "facility" as that term is defined under Ill. Adm. Code 35 § 720.110 and 40 C.F.R. § 260.10.

20. At all times relevant to this CAFO, Respondent used sodium hydroxide, copper, nickel, and chrome in their plating line.

21. At all times relevant to this CAFO, the plating line generated tank rinses which were collected in tanks and stored in the plating line area.

22. At all times relevant to this Complaint, Respondent held the tank rinses, a discarded material, for temporary periods in tanks before the material was shipped from the Facility for treatment, storage, disposal, burning or incineration elsewhere.

23. Respondent characterized its tank rinses as hazardous waste codes D002 (corrosive) and D007 (chromium).

24. Respondent stored, transported, disposed of, or otherwise handled its tank rinses in tanks as that term is defined under Ill. Adm. Code 35 § 720.110 and 40 C.F.R. § 260.10.

25. At all times relevant to this CAFO, Respondent's tank rinses were a "solid waste" as that term is defined under Ill. Adm. Code 35 § 721.102 and 40 C.F.R. § 261.2.

26. At all times relevant to this CAFO, Respondent's tank rinses were a "hazardous waste" as that term is defined under Ill. Adm. Code 35 § 721.103 and 40 C.F.R. § 261.3.

27. At all times relevant to this CAFO, Respondent's holding of tank rinses in tanks constituted hazardous waste "storage," as that term is defined under Ill. Adm. Code 35 § 720.110 and 40 C.F.R. § 260.10.

28. At all times relevant to this CAFO, the plating line generated chrome acid solution which was collected in containers and stored in the 90-day hazardous waste storage area.

29. At all times relevant to this Complaint, Respondent held the chrome acid solution, a discarded material, for temporary periods in containers before the material was shipped from the Facility for treatment, storage, disposal, burning or incineration elsewhere.

30. Respondent characterized its chrome acid solution as hazardous waste codes D001 (ignitable), D002 (corrosive) and D007 (chromium).

31. Respondent stored, transported, disposed of, or otherwise handled its chrome acid solution in containers as that term is defined under Ill. Adm. Code 35 § 720.110 and 40 C.F.R. § 260.10.

32. At all times relevant to this CAFO, Respondent's chrome acid solution was a "solid waste" as that term is defined under Ill. Adm. Code 35 § 721.102 and 40 C.F.R. § 261.2.

33. At all times relevant to this CAFO, Respondent's chrome acid solution was a "hazardous waste" as that term is defined under Ill. Adm. Code 35 § 721.103 and 40 C.F.R. § 261.3.

34. At all times relevant to this CAFO, Respondent's holding of chrome acid solution in containers constituted hazardous waste "storage," as that term is defined under Ill. Adm. Code 35 § 720.110 and 40 C.F.R. § 260.10.

35. At all times relevant to this CAFO, Respondent used chrome in their laser processing area.

36. At all times relevant to this CAFO, the laser processing area generated a plasma dust with chrome oxide waste which were collected in containers and stored in the warehouse storage area.

37. At all times relevant to this CAFO, Respondent's plasma dust with chrome oxide waste was a "solid waste" as that term is defined under Ill. Adm. Code 35 § 721.102 and 40 C.F.R. § 261.2

38. Respondent is a "generator," as that term is defined in Ill. Adm. Code 35 § 720.110 and [40 C.F.R. § 260.10].

39. The Facility was generating and managing hazardous waste on or before November 19, 1980.

40. On September 10, 2018, U.S. EPA conducted a Compliance Evaluation Inspection of the Facility and on February 13, 2019, the Illinois Environmental Protection Agency (Illinois EPA) conducted a Compliance Evaluation Inspection of the Facility (the Inspections).

41. On November 13, 2019, U.S. EPA issued a Notice of Violation to Respondent alleging certain violations of RCRA discovered during the Inspections.

42. On August 7, 2020, Respondent submitted to U.S. EPA a written response to the Notice of Violation.

43. On November 13, 2019, U.S. EPA issued a Notice of Potential Violation and Opportunity to Confer to Respondent alleging certain violations of RCRA discovered during the inspection.

44. At all times relevant to this CAFO, the State of Illinois had not issued a permit to Respondent to treat, store, or dispose of hazardous waste at its Facility.

45. At all times relevant to this CAFO, Respondent did not have interim status for the treatment, storage, or disposal of hazardous waste at its Facility.

46. On or about June 25, 1980, Respondent submitted a Hazardous Waste notification to EPA for the Facility.

47. The Hazardous Waste Notification indicated that Respondent is a Large Quantity Generator.

48. At all times relevant to this CAFO, the Facility generated during each calendar month more than 1,000 kg of hazardous waste.

**Count 1: Storage of Hazardous Waste Without a Permit or Interim Status**

49. Complainant incorporates paragraphs 1 through 48 of this CAFO as though set forth in this paragraph.

50. Pursuant to 3005(a) of RCRA, 42 U.S.C. § 6925(a), and the regulations at 40 C.F.R. Part 270, the treatment, storage, or disposal of hazardous waste by any person who has not applied for or received a permit is prohibited.

51. Pursuant to 35 Ill. Adm. Code § 722.134, and subject to certain exceptions, a generator of hazardous waste may accumulate hazardous waste on-site for 90 days or less without having a permit or interim status, provided that the generator complies with all applicable conditions set forth in 35 Ill. Adm. Code § 722.134 including, but not limited to, requirements for owners and operators in 35 Ill. Adm. Code Part 725.

52. A generator who accumulates hazardous waste for more than 90 days is an operator of a storage facility and is subject to the requirements of 35 Ill. Adm. Code § 725 and the permit requirements of 35 Ill. Adm. Code §§ 703.121, 703.180, and 705.121, unless the generator has been granted an extension to the 90-day period. Storage for more than 90 days subjects the generator of hazardous waste to the requirement to either obtain a permit or achieve interim status.

53. At all times relevant to this Complaint, Respondent had not been granted an extension to accumulate hazardous waste for more than 90 days.

54. Similarly, the failure to comply with any of the conditions of 35 Ill. Adm. Code § 722.134, subjects the generator of hazardous waste to the requirements of 35 Ill. Adm. Code § 725 and the permit requirements of 35 Ill. Adm. Code §§ 703.121, 703.180, and 705.121.

55. At the time of the Inspections, Respondent failed to store hazardous waste for 90 days or less without obtaining or applying for a permit.

56. In order for a generator of hazardous waste to maintain its exemption from the requirement to have an operating permit or interim status, it must clearly mark each container holding hazardous waste with the accumulation start date.

57. At the time of the Inspections, Respondent failed to mark a container holding hazardous waste with the accumulation start date without obtaining or applying for a permit.

58. Accordingly, Respondent failed to satisfy all of the conditions for maintaining its exemption from the requirement that it have an operating permit or interim status.

59. As a result of Respondent's failure to meet all of the applicable conditions for the generator exemption provided by 35 Ill. Adm. Code § 722.134, Respondent became an operator of a hazardous waste treatment, storage, and disposal facility (TSDF).

60. Respondent's storage of hazardous waste without a permit or interim status violated Section 3005 of RCRA, 42 U.S.C. § 6925(a) and the requirements of 35 Ill. Adm. Code §§ 703.121, 703.180, and 705.121.

### **Count 2: Failure to Conduct Personnel Training**

61. Complainant incorporates paragraphs 1 through 48 of this CAFO as though set forth in this paragraph.

62. As an operator of TSDF, Respondent is subject to the requirements of 35 Ill. Adm. Code § 725.116.

63. 35 Ill. Adm. Code § 725.116 requires that the owner or operator of a TSDF to provide a program of classroom or on-the-job training to facility employees that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of this part. The program must be directed by a person trained in hazardous waste management procedures, must be provided initially to facility employees within six months of assignment to their position and



annually thereafter, and records documenting that the initial and annual training was completed must be maintained for a minimum of three years.

64. At the time of the Inspections, Respondent had not provided initial personnel training to facility employees within six months of assignment to their position.

65. At the time of the Inspections, Respondent had not provided annual personnel training to facility employees for calendar year 2017.

66. At the time of the Inspections, Respondent had not maintained records of personnel training for a minimum of three years as required.

67. Respondent's failure to provide initial and annual personnel training, and to maintain records of personnel training violated 35 Ill. Adm. Code § 725.116.

**Count 3: Failure to Maintain Hazardous Waste Storage Tank Requirements**

68. Complainant incorporates paragraphs 1 through 48 of this CAFO as though set forth in this paragraph.

69. As an operator of TSDf, Respondent is subject to the requirements of 35 Ill. Adm. Code §§ 725.290-300.

70. 35 Ill. Adm. Code § 725.292 requires that the owner or operator of a TSDf obtain a written assessment reviewed and certified by a Professional Engineer that attests to that the hazardous waste tank system has sufficient structural integrity.

71. At the time of the Inspections, Respondent had not obtained written assessments for two hazardous waste storage tanks in the plating area.

72. 35 Ill. Adm. Code § 725.293 requires that the owner or operator of a TSDf to provide secondary containment for all new and existing hazardous waste tank systems or components prior to their being put into service.

73. At the time of the Inspections, Respondent had not provided secondary containment for two hazardous waste storage tanks in the plating area.

74. 35 Ill. Adm. Code § 725.295 requires that the owner or operator of a TSDF to inspect at least once each operating day data gathered from monitoring and leak detection equipment to ensure that the tank system is being operated to its design.

75. At the time of the Inspections, Respondent had not been conducting daily inspections of the two hazardous waste storage tank system in the plating area.

76. Respondent's failure to obtain written assessments certified by a Professional Engineer, inspect the tank systems, at least daily, and provide secondary containment for two hazardous waste storage tanks violated 35 Ill. Adm. Code §§ 725.291, 725.292 and 725.295.

#### **Count 4: Failure to Inspect Hazardous Waste Storage Area**

77. Complainant incorporates paragraphs 1 through 48 of this CAFO as though set forth in this paragraph.

78. As an operator of TSDF, Respondent is subject to the requirements of 35 Ill. Adm. Code § 725.274.

79. 35 Ill. Adm. Code § 724.275 requires that the owner or operator of a TSDF to inspect, at least weekly, areas where hazardous waste containers are stored. The owner or operator must look for leaking containers and deterioration of containers.

80. At the time of the Inspections, Respondent had not been conducting weekly inspections of containers holding hazardous waste that were located in the 90-day storage area.

#### **Count 5: Failure to Maintain Contingency Plan Requirements**

81. Complainant incorporates paragraphs 1 through 48 of this CAFO as though set forth in this paragraph.

82. As an operator of TSDF, Respondent is subject to the requirements of 35 Ill. Adm. Code §§ 725.152.

83. 35 Ill. Adm. Code § 725.152 requires that the owner or operator of a TSDF list the names and contact information of all persons qualified to act as emergency coordinators, and this list must be kept up to date in the contingency plan.

84. At the time of the Inspections, Respondent did not have the updated names and contact information of emergency coordinators listed in the contingency plan.

85. Respondent's failure to have the updated names and contact information of emergency coordinators listed in the contingency plan violated 35 Ill. Adm. Code §§ 725.152.

**Count 6: Failure to Submit Annual Reports as Required**

86. Complainant incorporates paragraphs 1 through 48 of this CAFO as though set forth in this paragraph.

87. 35 Ill. Adm. Code § 722.141(a) [40 C.F.R.§ 262.41], requires a large quantity generator that ships any hazardous waste off site to a treatment, storage or disposal facility within the United States to complete and submit an annual report to Illinois EPA by March 1 of the following year. The annual report must be submitted on a form supplied by the Illinois EPA, and it must cover generator activities during the previous calendar year. These generator activities include, among other things, the quantity of each hazardous waste shipped off-site for shipments to a TSDF.

88. At the time of the Inspections, Respondent had not included a chrome acid solution waste generated from their tank cleanouts in their annual reports for 2017.

89. Respondent did not submit the annual report for year 2020 until December 14, 2021.

90. Respondent's failure to submit accurate annual reports for years 2017 and the annual

report for year 2020 by March 1, 2021, violated 35 Ill. Adm. Code § 722.141(a).

### **Count 7: Failure to Maintain Records**

91. Complainant incorporates paragraphs 1 through 48 of this CAFO as though set forth in this paragraph.

92. 35 Ill. Adm. Code § 722.140 [40 C.F.R. § 262.40(c)], requires generators to keep records of any test results, waste analyses, or other determinations made in accordance with 35 Ill. Adm. Code § 722.111 and 40 C.F.R. § 262.11 for at least three years from the date that the waste was last sent to on-site or off-site treatment, storage, or disposal.

93. At the time of the Inspections, Respondent did not have records related to a waste determination for chrome oxide waste from the laser processing area.

94. Respondent's failure to keep records of its waste determinations for chrome oxide waste violated 35 Ill. Adm. Code § 722.140 [40 C.F.R. § 262.40(c)].

### **Civil Penalty**

95. Pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), Complainant determined that an appropriate civil penalty to settle this action is \$239,397. In determining the penalty amount, Complainant took into account the seriousness of the violation and any good faith efforts to comply with the applicable requirements and Respondent's. Complainant also considered U.S. EPA's RCRA Civil Penalty Policy, dated June 23, 2003.

96. Within 30 days after the effective date of this CAFO, Respondent must pay a \$239,397 civil penalty for the RCRA violations by online payment.

97. To pay online go to:

**WWW.PAY.GOV**

Use the Search Public Forms option and enter 'sfo 1.1' in the search field.  
Open form and complete required fields.

98. After paying the civil penalty, Respondent shall send evidence of such payment to EPA via a transmittal letter stating Respondent's name, the case title, the case docket number and the amount of the payment, to:

Regional Hearing Clerk (E-19J)  
U.S. EPA, Region 5  
[r5hearingclerk@epa.gov](mailto:r5hearingclerk@epa.gov)

Graciela Scambiatterra  
Land Enforcement and Compliance Assurance Branch  
U.S. EPA, Region 5  
[scambiatterra.graciela@epa.gov](mailto:scambiatterra.graciela@epa.gov) and  
[r5lecab@epa.gov](mailto:r5lecab@epa.gov)

John P. Steketee  
Office of Regional Counsel  
U.S. EPA, Region 5  
[steketee.john@epa.gov](mailto:steketee.john@epa.gov)

99. This civil penalty is not deductible for federal tax purposes.

100. If Respondent does not timely pay the civil penalty, U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties, and the United States enforcement expenses for the collection action. The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

101. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any

principal amount 90 days past due.

102. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount

103. overdue under this CAFO. Interest will accrue on any amount overdue from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

#### General Provisions

104. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: [stekettec.john@epa.gov](mailto:stekettec.john@epa.gov) (for Complainant), and [john.burgess@pamarco.com](mailto:john.burgess@pamarco.com) and [kg@nijmanfranzetti.com](mailto:kg@nijmanfranzetti.com) (for Respondent). Respondent understands that the CAFO will become publicly available upon filing.

105. Respondent's full compliance with this CAFO shall only resolve Respondent's liability for federal civil penalties under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for the violations alleged in this CAFO.

106. This CAFO does not affect the right of U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

107. This CAFO does not affect Respondent's responsibility to comply with RCRA and other applicable federal, state, local laws or permits.

108. This CAFO is a "final order" for purposes of 40 C.F.R. § 22.31, U.S. EPA's RCRA Civil Penalty Policy, and U.S. EPA's Hazardous Waste Civil Enforcement Response Policy

(December 2003).

109. The terms of this CAFO bind Respondent, its successors, and assigns.

110. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

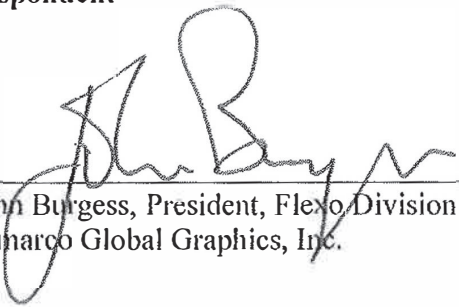
111. Each party agrees to bear its own costs and attorney's fees in this action.

112. This CAFO constitutes the entire agreement between the parties.

In the Matter of:  
Pamarco Global Graphics, Incorporated,  
Batavia, Illinois  
Docket No. RCRA-05-2022-0017

Pamarco Global Graphics, Incorporated, Respondent

SEPT 12 2022  
Date

  
John Burgess, President, Flexo Division  
Pamarco Global Graphics, Inc.

United States Environmental Protection Agency, Complainant

\_\_\_\_\_  
Date

MICHAEL HARRIS   
Digitally signed by  
MICHAEL HARRIS  
Date: 2022.09.20  
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Michael D. Harris  
Division Director  
Enforcement and Compliance Assurance Division



**In the Matter of:  
Pamarco Global Graphics, Incorporated,  
Batavia, Illinois  
Docket No. RCRA-05-2022-0017**

**Final Order**

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

\_\_\_\_\_  
Date

**ANN COYLE** Digitally signed by ANN  
COYLE  
Date: 2022.09.21  
13:21:23 -05'00'

\_\_\_\_\_  
Ann L. Coyle  
Regional Judicial Officer  
United States Environmental Protection Agency  
Region 5