



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

SEP 14 2016

Gary L. Hall, President
Lionheart Industries, Inc.
601 N. Orange Blossom Trail
Orlando, Florida 32805

Re: Lionheart Industries, Inc. FLD981027667
Consent Agreement and Final Order, Docket No. RCRA-04-2016-4019(b)

Dear Mr. Hall:

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-reference matter. Please note that the civil penalty is to be paid in four equal installments, including interest. The first payment 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. Subsequent payments are due thereafter in ninety (90) days intervals from the filing or effective date.

Thank you for your assistance in resolving this matter. If you have any questions, please feel free to contact me at 404-562-8590 or by email at lamberth.larry@epa.gov.

Sincerely,

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

Larry L. Lamberth
Chief, Enforcement and Compliance Branch
RCR Division

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)
)
Lionheart Industries, Inc.)
601 North Orange Blossom Trail)
Orlando, Florida 32805)
)
EPA ID No.: FLD981027667)
)
Respondent)
_____)

Docket Number: RCRA-04-2016-4019(b)

Proceeding under Section 3008(a) of
Resource Conservation and
Recovery Act, 42 U.S.C. § 6928(a)

HEARING CLERK

2016 SEP 14 PM 4: 35

USEPA REGION 4
OFFICE OF REGIONAL
COUNSEL

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 Chapter 403 of the Florida Statutes (Fla. Stat.), Fla. Stat. § 403.702 *et seq.* [Subtitle C of RCRA, 42 U.S.C. §§ 6921-6939(f)] and the regulations promulgated pursuant thereto and set forth at Florida Administrative Code Annotated Rule (Fla. Admin. Code Ann. r.) 62-730 *et seq.* [Title 40 of the Code of Federal Regulations (40 C.F.R.) Parts 260 through 270]. This action is seeking the imposition of civil penalties pursuant to Section 3008(a) of RCRA for alleged violations of Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] and for violations of 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), the parties 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, Enforcement and Compliance Branch, Resource Conservation and Restoration Division, 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 Lionheart Industries, Inc. (LII), a company incorporated under the laws of the State of Florida. Respondent is the owner and operator of a electroplater/metal finisher facility located at 601 North Orange Blossom Trail, Orlando, Florida (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 requirements are found at Fla. Admin. Code Ann. r. 62 730.160 [40 C.F.R. Part 262].
12. Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005(a) of RCRA, 42 U.S.C. § 6925(a)], sets forth the requirement that facilities that treat, store, or dispose 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. 62-730.030(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. § 261.21], a solid waste that exhibits the characteristic of ignitability 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. § 261.22], a solid waste that exhibits the characteristic of reactivity 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. § 261.24], a solid waste that exhibits the characteristic of toxicity for chromium is identified with the EPA Hazardous Waste Number D007.
19. 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 listed “hazardous waste” if it is listed in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261, Subpart D].
20. Wastewater treatment sludge from electroplating, is a listed hazardous waste in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261 Subpart D] at Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.31(a)] and is identified with EPA Hazardous Waste Number F006.
21. Wastewater treatment sludge from the chemical conversion coating of aluminum, is a listed hazardous waste in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261 Subpart D] at Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.31(a)] and is identified with EPA Hazardous Waste Number F019.
22. 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.

23. 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.
24. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], a “person” includes, inter alia, a firm, corporation, partnership, individual or association.
25. 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.
26. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], “storage” means the holding of a hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.
27. 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].
28. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)], 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)] (hereinafter referred to as the “LQG Permit Exemption”).
29. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(1)(i)], which incorporates Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 265.173(a)], and is a condition of the LQG Permit Exemption, a generator is required to keep containers of hazardous waste closed when waste is not being added or removed.
30. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(2)], which is a condition of the LQG Permit Exemption, a generator is required to ensure that the date upon which each period of accumulation begins is clearly marked and visible on each container.
31. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(3)], which is a condition of the LQG Permit Exemption, a generator is required to label or clearly mark each container and tank accumulating hazardous waste on-site with the words: “Hazardous Waste.”
32. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(1)(i)], which incorporates Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 265.174], and is a condition of the LQG Permit Exemption, a generator is required, at least weekly, to inspect areas where containers are stored looking for leaking containers and for deterioration of containers caused by corrosion or other factors.

33. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(4)], which incorporates Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 265.16(a)], and is a condition of the LQG Permit Exemption, facility personnel must 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 regulations.
34. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(4)], 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, a generator is required to maintain and operate its facility 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.
35. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(4)], which incorporates Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 265.52(d)], and is a condition of the LQG Permit Exemption, a generator is required to list the names, addresses and phone numbers of emergency coordinators in the contingency plan.
36. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(c)(1)], 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)], provided that the generator complies with the satellite accumulation area (SAA) conditions listed in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(c)(1)(i)-(ii)] (hereinafter referred to as the "SAA Permit Exemption").
37. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(c)(1)(i)], 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.
38. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(c)(1)(ii)], which is a condition of the SAA Permit Exemption, a generator is required to mark satellite accumulation containers either with the words "Hazardous Waste" or with other words that identify the contents of the containers.
39. Pursuant to Fla. Admin. Code Ann. r. 62-737.400(4) [40 C.F.R. § 273.9] a "Small Quantity Handler of Universal Waste" (SQHUW) is a universal waste handler who accumulates less than 5,000 kilograms of universal waste (batteries, pesticides, mercury-containing equipment, or lamps, calculated collectively) at any time.
40. Pursuant to Fla. Admin. Code Ann. r. 62-737.400(4) [40 C.F.R. § 273.13(d)(1 & 2)], 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; and immediately clean up and place in a container any lamp that is broken and must place in a container any lamp that shows evidence of breakage, leakage, or damage that could cause the release of mercury or other hazardous constituents to the environment. Containers must be closed, structurally sound, compatible with

the contents of the lamps and must lack evidence of leakage, spillage or damage that could cause leakage or releases of mercury or other hazardous constituents to the environment under reasonably foreseeable conditions.

41. Pursuant to Fla. Admin. Code Ann. r.62-737.400(5)(b)(1)[40 C.F.R. § 273.14(e)], a SQHUW must mark or label clearly each lamp, or container or package in which such lamps are contained with any one of the following phrases: “Universal Waste—Lamp(s),” or “Waste Lamp(s),” or “Used Lamp(s).”

IV. EPA ALLEGATIONS AND DETERMINATIONS

42. Respondent is a “person” as defined in Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10].
43. Respondent is the “owner/operator” of a “facility,” located at 601 North Orange Blossom Trail, Orlando Florida, as those terms are defined in Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10].
44. Respondent is a “generator” of “hazardous waste” as those terms are defined in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.2 and 261.3].
45. Respondent is metal finisher providing electroplating, polishing, anodizing, and other different plating finishes.
46. In 2014, Respondent notified the Florida Department of Environmental Protection (FDEP) that it was a LQG of hazardous waste as that term is defined in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)].
47. On February 2, 2016, inspectors with the EPA and the FDEP (“the inspectors”) conducted a compliance evaluation inspection (CEI) at Respondent’s facility. The findings of the CEI were documented in a report mailed to Respondent, dated April 25, 2016.
48. At the time of the February 2, 2016 CEI (“the inspection”), the inspectors found that Respondent had not conducted a waste determination on the following solid wastes, which were later determined to be hazardous wastes:
 - a. One three-gallon container of unknown waste stored in the Storage Area A (Product Storage);
 - b. Two tanks storing waste chrome bath water;
 - c. Three, five-gallon and one, seven-gallon containers of unknown waste stored at the Old Phosphate Line;
 - d. One, one-liter container of waste potassium iodide stored in the Upstairs Shop;
 - e. One, three-gallon container of waste gold strip stored in the Upstairs Shop;
 - f. One 55-gallon drum, labeled “trash,” that contained an unknown liquid waste, stored in the Upstairs Shop;
 - g. One 55-gallon drum of waste, labeled “copper cyanide solution,” stored in the Upstairs Shop;
 - h. One 55-gallon of waste DESMUT 1000 stored in the Storage Area C;
 - i. One box of waste orosene 999, an acid adjusting salt, stored in the Old Chromate Bath

Room;

- j. One box of waste formaldehyde stored in the Old Chromate Bath Room;
- k. One, one-liter of waste 2-propanol stored in the Old Chromate Bath Room; and,
- l. Four 55-gallon drums, one 55-gallon poly drum, and one 30-gallon drum of unknown waste stored behind the outside bathrooms.

- 49. 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.
- 50. At the time of the inspection, the inspectors observed 17 55-gallon drums of hazardous wastewater (D001/D002/D007) and one cubic yard bag of sludge from waste water treatment, a F006/F019 hazardous waste, to be open, without being labeled with the words “Hazardous Waste” and without being marked with an accumulation start date. These containers were stored in the less-than 90-day hazardous waste accumulation area.
- 51. Additionally, at the time of the inspection, the inspectors observed one 5-gallon container of sludge, a F019 hazardous waste, from the chemical film plating line; one 5-gallon container of waste filters, a F006 hazardous waste, from the silver plating process; and two 5-gallon containers of D001/F009 hazardous waste, that were open, without being labeled with the words “Hazardous Waste” or other words that identify the contents of the containers. These containers were stored in SAAs.
- 52. 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 by not complying with the dating requirements of Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(2)].
- 53. The EPA therefore alleges that 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 by not complying with the labeling requirements of Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(3)].
- 54. 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 SAA Permit Exemption by not complying with the labeling requirements of Fla. Admin. Code Ann. r. 62-730.160(1)[40 C.F.R. § 262.34(c)(1)(ii)].
- 55. 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)(1)(i)] and 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)], by not complying with the container management requirements to keep its containers closed except when adding waste of Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 265.173(a)].

56. At the time of the inspection, the inspectors found that Respondent had not performed weekly inspections of containers, used to store hazardous waste, for at least three years.
57. 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)(1)(i)], by not complying with the inspection requirements of Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 265.174].
58. At the time of the inspection, the inspectors found Respondent did not have training records for those employees that manage hazardous waste.
59. 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)], by not complying with the personnel training requirements of Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 265.16].
60. At the time of the inspection, the inspectors observed un-containerized hazardous waste located on the floor of the facility, including dried sludge, a F006/F019 hazardous waste, located under the waste water treatment filter press, and two spent filters, a F006 hazardous waste, leaning against a product tank at the silver tank line.
61. 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)], 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].
62. At the time of inspection, the inspectors found Respondent's contingency plan did not include home addresses for the emergency contacts.
63. 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)], by not complying with the contingency plan requirements of Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 265.52(d)].
64. At the the time of the inspection, the inspectors observed Respondent had not containerized spent fluorescent lamps located at the Chemical Film Plating Line and at the Old Chrome Plating Line. Additionally, Respondent had not adequately containerized spent fluorescent that were located in a cardboard drum located at the Old Chrome Plating Line. The drum was in poor condition and broken in the bottom, resulting in lamp breakage and releases from the drum.

65. The EPA therefore alleges that Respondent violated Fla. Admin. Code Ann. r. 62-737.400(5) [40 C.F.R. § 273.13(d) (1 & 2)], by failing to manage spent universal waste lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment.
66. The EPA therefore alleges that Respondent violated Fla. Admin. Code Ann. r. 62-737.400(5) [40 C.F.R. § 273.14(e)], by failing to label or mark each lamp or container of lamps clearly with one of the following phrases: “Universal Waste-Lamp(s),” or “Waste Lamp(s),” or “Used Lamps.”

V. TERMS OF AGREEMENT

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

67. 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.
68. Respondent neither admits nor denies the factual allegations and determinations set out in this CA/FO.
69. Respondent waives any right to contest the allegations and its right to appeal the proposed Final Order accompanying the Consent Agreement.
70. 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.*
71. 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.
72. 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.
73. 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.
74. Respondent, by signing this CA/FO, certifies that Respondent is currently in compliance with RCRA and the authorized State hazardous waste program.
75. 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.
76. Each party will pay its own costs and attorneys’ fees.

VI. PAYMENT OF CIVIL PENALTY

77. Respondent consents to the payment of a civil penalty in the amount of **TWELVE THOUSAND THREE HUNDRED DOLLARS exactly (\$12,300.00)**, plus interest at 4.00% per annum, payable as follows:

- a. The civil penalty shall be paid in four equal installments. In order to complete payment of the entire civil penalty, including interest, **the total amount that shall be paid upon completion of all payments will be TWELVE THOUSAND, FOUR HUNDRED EIGHTY FOUR DOLLARS AND NINETEEN CENTS (\$12,484.19)**. The first payment is due within thirty (30) calendar days of the effective date of this CA/FO, which shall be the date on which the CA/FO is filed with the Regional Hearing Clerk. Respondent's subsequent payments shall thereafter be due in intervals of 90 calendar days from said effective date.
- b. Respondent shall make payments in accordance with the following schedule:

Payment Number	Payment shall be made by no later than:	Principal Amount	Interest Amount	Total Payment Amount
1	Thirty (30) calendar days following the effective date of this CA/FO.	\$ 3,121.05	\$ 0	\$ 3,121.05
2	Ninety (90) calendar days following the effective date of this CA/FO.	\$ 3029.26	\$ 91.79	\$ 3,121.05
3	One hundred and eighty (180) calendar days following the effective date of this CA/FO.	\$ 3059.55	\$ 61.50	\$ 3,121.05
4	Two hundred and seventy (270) calendar days following the effective date of this CA/FO.	\$ 3090.14	\$ 30.90	\$ 3,121.04

- c. If Respondent fails to make one of the installment payments in accordance with the schedule set forth above, the entire unpaid balance of the penalty and all accrued interest shall become due immediately upon such failure, and Respondent shall immediately pay the entire remaining principal balance of the civil penalty along with all interest that has accrued up to the time of such payment. In addition, in the event of any such failure or default, Respondent shall be liable for and shall pay administrative handling charges and late payment penalty charges as described below.
- d. Further, if Respondent fails to pay the installment payments in accordance with the schedule set forth above, EPA may refer the debt to a collection agency, a credit reporting agency, or

to the Department of Justice for filing of a collection action in the appropriate United States District Court. In any such collection action, the validity, the amount, and appropriateness of the assessed penalty and of this CA/FO shall not be subject to review.

- e. Notwithstanding Respondent's agreement to pay the assessed civil penalty in accordance with the installment schedule set forth above, Respondent may pay the entire civil penalty of **TWELVE THOUSAND THREE HUNDRED DOLLARS exactly (\$12,300.00)** within thirty (30) calendar days of the effective date of this CA/FO and thereby avoid the payment of interest pursuant to 40 C.F.R. § 13.11(a). In addition, Respondent may, at any time after commencement of payments under the installment schedule, elect to pay the entire principal balance then remaining, together with interest accrued up to the date of such full payment.

78. 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:

U.S. 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

79. 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:

Héctor M. Danois, Environmental Engineer
Hazardous Waste Enforcement and Compliance Section
Enforcement and Compliance Branch
Resource Conservation and Restoration Division, US EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8909

80. 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. Pursuant to 31 U.S.C. § 3717, Respondent must pay the following amounts on any amount overdue:

- a. 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).
- b. 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.
- c. 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. This non-payment is in addition to charges which accrue or may accrue under subparagraphs (a) and (b).

81. Penalties paid pursuant to this CA/FO are not deductible for federal purposes under 26 U.S.C. § 162(f).

VII. PARTIES BOUND

82. 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.
83. 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.
84. The undersigned representative of Respondent hereby certifies that he or she is fully authorized to enter into this CA/FO and to execute and legally bind Respondent to it.

VIII. RESERVATION OF RIGHTS

85. 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.
86. 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.
87. 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

88. 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

89. 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 EPA in this proceeding:

Joan Redleaf Durbin, Associate Regional Counsel
Office of RCRA/CERCLA Legal Support
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
redleaf-durbin.joan@epa.gov
404-562-9544

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

Gary L. Hall, President
Lionheart Industries, Inc.
601 N. Orange Blossom Trail
Orlando, Florida 32805

XI. SEVERABILITY

91. 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

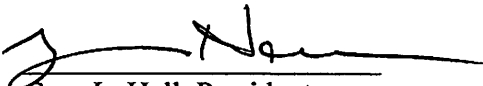
92. The effective date of this CA/FO shall be the date on which the CA/FO is filed with the Regional Hearing Clerk.

(Signatures on next page)

In the matter of Lionheart Industries, Inc. DOCKET NO.: RCRA-04-2016-4019(b)

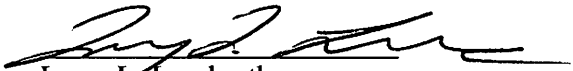
AGREED AND CONSENTED TO:

Lionheart Industries, Inc.

By: 
Gary L. Hall, President
Lionheart Industries, Inc.

Dated: 9/9/16

United States Environmental Protection Agency

By: 
Larry L. Lamberth
Chief, Enforcement and Compliance Branch
Resource Conservation and Restoration Division

Dated: 09/14/16

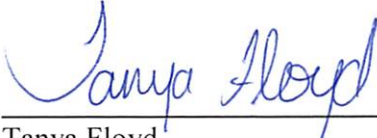
**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:) Docket Number: RCRA-04-2016-4019(b)
)
Lionheart Industries, Inc.)
601 North Orange Blossom Trail) Proceeding under Section 3008(a) of the
Orlando, Florida 32805) Resource Conservation and
) Recovery Act, 42 U.S.C. § 6928(a)
)
EPA ID No.: FLD981027667)
)
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 14th day of September 2016.

BY: 
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 case of Lionheart Industries, Inc., Docket Number: RCRA-04-2016-4019(b), and have served the parties listed below in the manner indicated:

Joan Redleaf Durbin
Associate Regional Counsel
Office of RCRA/CERCLA Legal Support
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

(Via EPA's electronic mail)

Héctor M. Danois
Hazardous Waste Enforcement and Compliance Section
Enforcement and Compliance Branch
Resource Conservation and Restoration Division
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

(Via EPA's electronic mail)

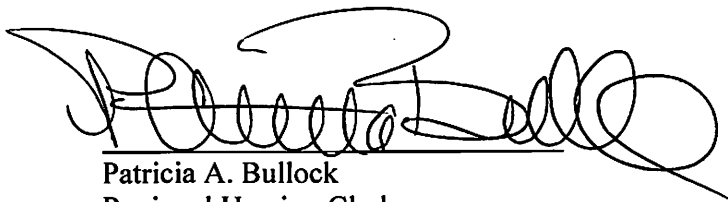
Quantindra Smith
Environmental Protection Specialist
Enforcement and Compliance Branch
Resource Conservation and Restoration Division
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

(Via EPA's electronic mail)

Gary L. Hall, President
Lionheart Industries, Inc.
601 N. Orange Blossom Trail
Orlando, Florida 32805

(Via Certified Mail-Return Receipt
Requested)

Date: 9-14-16



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