



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

SEP 13 2012

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. David Pirkle, Jr.
Owner
Pirkle, Inc.
598 Wells Street SW
Atlanta, Georgia 30312

Re: Consent Agreement and Final Order
Pirkle, Inc.
Docket Number: RCRA-04-2012-4011(b)

Dear Mr. Pirkle:

Enclosed is a copy of the fully executed Consent Agreement and Final Order (CA/FO) as filed with the Regional Hearing Clerk (RHC) in the above referenced matter. The CA/FO was effective upon filing with the RHC and the payment of the civil penalty is to be paid within thirty (30) calendar days of the effective date of the CA/FO.

Also enclosed is a copy of a document titled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts Pirkle, Inc. on notice of its potential duty to disclose to the Securities and Exchange Commission any environmental actions taken by the EPA.

If you have any questions, please feel free to contact Marirose J. Pratt, Assistant Regional Counsel, at (404) 562-9023.

Sincerely,

A handwritten signature in black ink, appearing to read "César Zapata".

César Zapata, Chief
RCRA and OPA Enforcement and Compliance Branch
RCRA Division

Enclosures

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)	Docket Number: RCRA-04-2012-4011(b)
)	
Pirkle, Inc.)	Proceeding under Section 3008(a)
598 Wells Street SW)	of the Resource Conservation and
Atlanta, Georgia 30312)	Recovery Act, 42 U.S.C. § 6928(a)
EPA ID No.: GAR 000 061 887)	
)	
)	
Respondent)	
<hr/>		

RECEIVED
EPA REGION IV
2012 SEP 13 PM 2:00
HEARING CLERK

CONSENT AGREEMENT

I. NATURE OF THE ACTION

1. This is a civil administrative enforcement action, ordering compliance with the requirements of Sections 12-8-60 through 12-8-83 of the Georgia Hazardous Waste Management Act (GHWMA), GA. CODE ANN. § 12-8-60 *et seq.* (Subtitle C of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§ 6921-6939e). This action seeks civil penalties pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for alleged violations of the GHWMA and the regulations promulgated pursuant thereto, set forth in the Georgia Hazardous Waste Management Rules (GHWMR), codified at GA. COMP. R. AND REGS. 391-3-11.01 through 391-3-11.18 (Title 40 of the Code of Federal Regulations (40 C.F.R.) Parts 260 through 279).
2. 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, 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).
3. The parties have conferred solely 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, RCRA and OPA Enforcement and Compliance Branch, RCRA Division, Region 4, United States Environmental Protection Agency.

5. Respondent is Pirkle, Inc., a corporation incorporated under the laws of the State of Georgia and doing business in the State of Georgia (Georgia or the State), located at 598 Wells Street SW, Atlanta, Georgia 30312.

III. PRELIMINARY STATEMENTS

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), Georgia has received final authorization from the EPA to carry out a hazardous waste program in lieu of the federal program set forth in RCRA. The requirements of the Georgia authorized program are found at GA. CODE ANN. § 12-8-60 through 12-8-83 and GA. COMP. R. AND REGS. 391-3-11.01 through 391-3-11.18.
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. Georgia 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), to address violations of the requirements of the authorized state program. The EPA exercises this authority in the manner set forth in the Memorandum of Agreement between the EPA and the State of Georgia.
9. As Georgia's authorized hazardous waste program operates in lieu of the federal RCRA program, the citations for the violations alleged herein will be to the authorized Georgia program; however, for ease of reference, the federal citations will follow in parentheses.
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. GA. CODE ANN. § 12-8-64(1)(A) (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 GA. COMP. R. AND REGS. 391-3-11-.08(1) (40 C.F.R. Part 262).
12. GA. CODE ANN. § 12-8-64(1)(A) (Section 3004 of RCRA, 42 U.S.C. § 6924) requires the promulgation of regulations establishing standards applicable to owners and operators of hazardous waste treatment, storage and disposal facilities. The implementing regulations for these requirements are found at GA. COMP. R. AND REGS. 391-3-11-.10(2) (40 C.F.R. Part 264).
13. GA. CODE ANN. § 12-8-66 (Section 3005 of RCRA, 42 U.S.C. § 6925) sets forth the requirement that a facility treating, storing, or disposing of hazardous waste must either have a permit or achieve interim status. The implementing regulations for this requirement are found at GA. COMP. R. AND REGS. 391.3-11-.10(1) (interim status) and (2) (permitted) (40 C.F.R. Parts 264 (permitted) and 265 (interim status)).
14. Pursuant to GA. COMP. R. AND REGS. 391-3-11-.07(1) (40 C.F.R. § 261.2), the term "solid waste" means any discarded material that is not otherwise excluded by regulation. A discarded material includes any material that is abandoned by being stored in lieu of being disposed.

15. Pursuant to GA. COMP. R. AND REGS. 391-3-11-.07(1) (40 C.F.R. § 261.3), a solid waste is a “hazardous waste” if the solid waste meets any of the criteria set out in GA. COMP. R. AND REGS. 391-3-11-.07(1) (40 C.F.R. § 261.3(a)(2)) and it is not otherwise excluded from regulation as a hazardous waste by operation of GA. COMP. R. AND REGS. 391-3-11-.07(1) (40 C.F.R. § 261.4(b)).
16. Pursuant to GA. COMP. R. AND REGS. 391-3-11-.02(1) (40 C.F.R. § 260.10), the term “person” means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, municipality, commission, or political subdivision or any agency, board, department or bureau of a state or the federal government.
17. Pursuant to GA. COMP. R. AND REGS. 391-3-11-.02(1) (40 C.F.R. § 260.10), the term “generator” means any person, by site, whose act or process produces hazardous waste identified or listed in GA. COMP. R. AND REGS. 391-3-11-.07(1) (40 C.F.R. Part 261) or whose act first causes a hazardous waste to be subject to regulation.
18. Pursuant to GA. COMP. R. AND REGS. 391-3-11-.02(1) (40 C.F.R. § 260.10), the term “facility” means all contiguous land and structures, other appurtenances and improvements on the land, used for treating, storing or disposing of hazardous waste.
19. Pursuant to GA. COMP. R. AND REGS. 391-3-11-.02(1) (40 C.F.R. § 260.10), the term “owner” means the person who owns a facility or part of a facility and the term “operator” means the person responsible for the overall operation of a facility.
20. Pursuant to GA. COMP. R. AND REGS. 391-3-11-.08(1) (40 C.F.R. § 262.11), a person who generates a solid waste must determine if that waste is a hazardous waste.
21. Pursuant to GA. COMP. R. AND REGS. 391-3-11-.04(1) and 391-3-11-.08(1) (Section 3010(a) of RCRA, 42 U.S.C. § 6930(a), and 40 C.F.R. § 262.12(a)), any person generating, transporting or storing hazardous waste is required to file a notification of hazardous waste activity stating the location and general description of such activity on the form (EPA Form 8700-12) provided by the Director of the Georgia Environmental Protection Division (GA EPD) and to receive an EPA Identification Number.
22. Pursuant to GA. COMP. R. AND REGS. 391-3-11-.08(1) (40 C.F.R. § 262.34(d)), a generator of greater than 100 kilograms but less than 1,000 kilograms of hazardous waste in a calendar month is a Small Quantity Generator (SQG) and may accumulate hazardous waste on-site for 180 days or less without a permit or without having interim status provided that the generator complies with the management requirements listed in GA. COMP. R. AND REGS. 391-3-11-.08(1) (40 C.F.R. § 262.34(d)) (hereinafter referred to as the “SQG permit exemption”).
23. Pursuant to GA. COMP. R. AND REGS. 391-3-11-.08(1) (40 C.F.R. § 262.34(d)(4)), a condition of the SQG permit exemption requires that facilities 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, as specified within GA. COMP. R. AND REGS. 391-3-11-.10(1) (40 C.F.R. § 265.31).
24. Pursuant to GA. COMP. R. AND REGS. 391-3-11-.08(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 interim status and without complying with GA. COMP. R. & REGS. 391-3-11-.08(1) (40 C.F.R. § 262.34(a)), provided that he comply with the management requirements listed in GA. COMP. R. AND REGS. 391-3-11-.08(1) (40 C.F.R. § 262.34(c)(1)(i)) and mark his containers with the words "Hazardous Waste" or other with words that identify the contents of the containers (hereinafter referred to as the "SAA permit exemption").

25. Pursuant to GA. COMP. R. AND REGS. 391-3-11-.08(1) (40 C.F.R. § 262.34(c)(1)(i)), a condition of the SAA permit exemption requires that a container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste, as specified within GA. COMP. R. AND REGS. 391-3-11-.10(1) (40 C.F.R. § 265.173(a)).
26. Pursuant to GA. COMP. R. AND REGS. 391-3-11-.18 (40 C.F.R. § 273.9), a Large Quantity Handler of Universal Waste (LQHUW) means a universal waste handler who accumulates 5,000 kilograms or more total of universal waste (batteries, pesticides, mercury-containing equipment, or lamps, calculated collectively) at any time.
27. Pursuant to GA. COMP. R. AND REGS. 391-3-11-.18 (40 C.F.R. § 273.32(a)(1)), a LGHUW must have sent written notification of universal waste management to the GA EPD, and received an EPA Identification Number, before meeting or exceeding the 5,000 kilogram storage limit.
28. Pursuant to GA. COMP. R. AND REGS. 391-3-11-.18 (40 C.F.R. § 273.33(d)), a LGHUW must manage universal waste lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment.
29. Pursuant to GA. COMP. R. AND REGS. 391-3-11-.18 (40 C.F.R. § 273.34(a)), a LGHUW must label or mark each universal waste battery or container or tank in which the batteries are contained clearly with one of the following phrases: "Universal Waste - Battery(ies)," or "Waste Battery(ies)," or "Used Battery(ies)."
30. Pursuant to GA. COMP. R. AND REGS. 391-3-11-.18 (40 C.F.R. § 273.34(d)), a LGHUW must 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."
31. Pursuant to GA. COMP. R. AND REGS. 391-3-11-.18 (40 C.F.R. § 273.35(a) and (c)), a LQHUW 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.
32. Pursuant to GA. COMP. R. AND REGS. 391-3-11-.18 (40 C.F.R. § 273.37), a LGHUW must immediately contain all releases of universal wastes and other residues from universal wastes, and determine whether any material resulting from the release is hazardous waste.
33. Pursuant to GA. COMP. R. AND REGS. 391-3-11-.17 (40 C.F.R. § 279.22(c)(1)), containers and aboveground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words "Used Oil."
34. Pursuant to GA. COMP. R. AND REGS. 391-3-11-.17 (40 C.F.R. § 279.22(d)), upon detection of a release of used oil to the environment, the facility must clean up and manage properly the released used oil and other materials.

IV. EPA'S ALLEGATIONS AND DETERMINATIONS

35. Respondent is a "person" within the meaning of GA. COMP. R. AND REGS. 391-3-11-.02(1) (40 C.F.R. § 260.10).
36. At all times relevant to this CA/FO, Respondent was the "owner" and/or "operator" of a "facility" located at 598 Wells Street SW, Atlanta, Georgia 30312 as those terms are defined in GA. COMP. R. AND REGS. 391-3-11-.02(1) (40 C.F.R. § 260.10).
37. Respondent operates a scrap metal recycling facility. The facility accepts ferrous and nonferrous metals from local business and individuals. The scrap metal is sorted and sold in bulk. Some of the materials accepted by the facility include iron, aluminum, copper, brass, silver, lead, lead acid batteries, and electronic waste. The facility maintains all heavy equipment onsite.
38. Respondent, as a result of its storage practices and operations at the facility, was a SQG of hazardous waste and a LQHUW at all times relevant to this CA/FO.
39. On July 5, 2011, and July 15, 2011, representatives of the EPA performed a RCRA compliance evaluation inspection (CEI) and a RCRA case development inspection (CDI), respectively, of the Respondent's facility located at 598 Wells Street SW, Atlanta, Georgia 30312. Two additional Follow-up Inspections (FUIs) were conducted by representatives of the EPA on July 18, 2011, and August 12, 2011. On December 14, 2011, the EPA mailed, via certified mail, an Information Request pursuant to Section 3007 of RCRA (Information Request). Delivery confirmation indicated that the Information Request was received by Respondent on December 16, 2011. On January 30, 2012, the EPA received the Respondent's signed and certified response to the EPA's Information Request. The findings of the CEI, CDI, and FUIs were documented in a RCRA inspection report, dated April 16, 2012, and further supported by the Respondent's signed and certified response to the EPA's Information Request.
40. On July 18, 2011, Respondent filed a hazardous waste generator notification form with GA EPD, in which it characterized the facility as a SQG. This notification indicated that the facility generated hazardous wastes with the characteristics of ignitability (D001), corrosivity (D002), and toxicity for mercury (D009), as well as the commercial chemical product mercury, a U-listed waste (U151).
41. At the time of the CEI, the CDI, and the July 18, 2011, FUI, the EPA observed unlabeled and unmarked containers that Respondent used to drain and store used oil.
42. The EPA therefore alleges that Respondent violated GA. COMP. R. AND REGS. 391-3-11-.17 (40 C.F.R. § 279.22(c)(1)), by storing used oil in containers that were not labeled or marked clearly with the words "Used Oil."
43. At the time of each inspection, the EPA observed soil staining, and other evidence of unaddressed used oil releases to the environment throughout the facility.
44. The EPA therefore alleges that the Respondent violated GA. COMP. R. AND REGS. 391-3-11-.17 (40 C.F.R. § 279.22(d)), by failing to clean up and properly manage used oil releases upon detection.

45. At the time of the CEI and CDI, the EPA observed unlabeled containers holding spent mineral spirits that had been used to clean painting supplies in the Maintenance Building. These containers were open while waste was not being added or removed and were not labeled with the words "Hazardous Waste" or other with words that identified the contents of the containers.
46. The EPA therefore alleges that the Respondent violated GA. CODE ANN. § 12-8-66 (Section 3005(a) of RCRA, 42 U.S.C. § 6925), for storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the SAA permit exemption in GA. COMP. R. AND REGS. 391-3-11-.08(1) (40 C.F.R. § 262.34(c)(1)(i)), which incorporates by reference GA. COMP. R. AND REGS. 391-3-11-.10(1) (40 C.F.R. § 265.173(a)), and GA. COMP. R. AND REGS. 391-3-11-.08(1) (40 C.F.R. § 262.34(c)(1)(ii)).
47. At the time of the CEI and the CDI, the EPA observed aluminum enamel staining on the ground in the warehouse, mercury stored in glass jars on a table with no containment, and electronic debris disassembled, broken, and discarded on the floor in the Warehouse Building.
48. The EPA therefore alleges that the Respondent violated GA. CODE ANN. § 12-8-66 (Section 3005(a) of RCRA, 42 U.S.C. § 6925), for storing hazardous waste without a permit or interim status, because Respondent failed to maintain the facility in a manner that would minimize the possibility of unplanned release, fire, or explosion, which is a condition of the SQG permit exemption found in GA. COMP. R. AND REGS. 391-3-11-.08(1) (40 C.F.R. § 262.34(d)(4)), which incorporates by reference GA. COMP. R. AND REGS. 391-3-11-.10(1) (40 C.F.R. § 265.31).
49. At the time of the CDI and both FUIs, the EPA observed that the facility was not properly identifying solid wastes generated at its facility and subsequently no hazardous waste determinations were being made on the solid wastes. These wastes include electronic wastes, discarded glass jars of mercury, broken fluorescent bulbs, discarded shredded and broken circuit boards, and a variety of waste-containing drums in the Warehouse.
50. The EPA therefore alleges that Respondent violated GA. COMP. R. AND REGS. 391-3-11-.08(1) (40 C.F.R. § 262.11), by failing to make hazardous waste determinations on solid wastes generated at its facility.
51. Based on manifests reviewed and information disclosed by Respondent to the EPA following the CDI on July 5, 2011, Respondent had both stored quantities of hazardous waste in excess of 100 kilograms and had manifested and offered for transport hazardous waste without having first received an EPA identification number.
52. The EPA therefore alleges that Respondent violated GA. COMP. R. AND REGS. 391-3-11-.04(1) and 391-3-11-.08(1) (Section 3010(a) of RCRA, 42 U.S.C. § 6930(a), and 40 C.F.R. § 262.12(a)), for failing to obtain an EPA Identification Number prior to storing and offering for transportation hazardous waste.
53. At the time of the CEI, CDI, and the July 18, 2011, FUI, the EPA observed apparent large quantity management of universal waste, which was later confirmed in the Respondent's response to the EPA's request for information, which indicated that Respondent had exceeded the 5,000 kilogram storage limit of universal waste batteries during January and May of 2010, and during the months of January through May of 2011. Respondent had not notified GAEPD of its LQHUW status during those times.

54. The EPA therefore alleges that Respondent violated GA. COMP. R. AND REGS. 391-3-11-.18 (40 C.F.R. § 273(a)(1)), by failing to have sent written notification of universal waste management to the GA EPD, and to have received an EPA Identification Number, before meeting or exceeding the 5,000 kilogram storage limit.
55. At the time of each inspection, the EPA observed universal waste, including lead acid batteries and fluorescent lamps, which were not dated to indicate the length of time that the universal waste had been had been accumulated from the date it became waste or was received. No additional information was subsequently provided that would clearly demonstrate the length of time that the universal waste had been stored.
56. The EPA therefore alleges that Respondent violated GA. COMP. R. AND REGS. 391-3-11-.18 (40 C.F.R. § 273.35(a) and (c)), for 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.
57. During the CEI, and the August 12, 2011, FUI, the EPA observed unlabeled pallets of lead acid batteries in the Precious Metals Warehouse, which the facility certified were being managed as universal waste batteries.
58. The EPA therefore alleges that Respondent violated GA. COMP. R. AND REGS. 391-3-11-.18 (40 C.F.R. § 273.34(a)), for failing to label or mark each universal waste battery or container or tank in which the batteries are contained clearly with the words "Universal Waste - Battery(ies)," or "Waste Battery(ies)," or "Used Battery(ies)."
59. At the time of the CDI and the FUI on July 18, 2011, the EPA observed uncontained spent universal waste lamps and boxes of spent universal waste lamps that were not labeled.
60. The EPA therefore alleges that Respondent violated GA. COMP. R. AND REGS. 391-3-11-.18 (40 C.F.R. § 273.34(d)), 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."
61. At the time of the CDI, the EPA observed uncontained spent universal waste lamps in the room in which the mercury was discovered, including ones that were broken on the floor.
62. The EPA therefore alleges that Respondent violated GA. COMP. R. AND REGS. 391-3-11-.18 (40 C.F.R. §§ 273.33(d) and 273.37), 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, and by failing to immediately contain all releases of universal wastes and other residues from universal wastes, and to determine whether any material resulting from the release is hazardous waste.

V. TERMS OF AGREEMENT

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

63. For the purposes of this CA/FO, Respondent admits the jurisdictional allegations set out in the paragraphs above pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928.
64. Respondent neither admits nor denies the factual allegations and determinations set out in this CA/FO.
65. Respondent waives any right to contest the allegations and its right to appeal the proposed Final Order accompanying the Consent Agreement.
66. 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.
67. 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 the EPA officials where the purpose of such discussion, memorandum or communication is to persuade such official to accept and issue this CA/FO.
68. 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.
69. Respondent, by signing this CA/FO, certifies that Respondent is currently in compliance with RCRA and the authorized Georgia hazardous waste program.
70. The parties agree that compliance with the terms of this CA/FO shall resolve all of Respondent's liability for civil penalties for the violations alleged and facts stipulated to in this CA/FO.
71. Each party will pay its own costs and attorneys' fees if applicable.

VI. PAYMENT OF CIVIL PENALTY

72. Respondent consents to the payment of a civil penalty in the amount of FORTY NINE THOUSAND FOUR HUNDRED AND TEN DOLLARS (US \$49,410.00), which is to be paid in accordance with the following schedule:

Payment shall be made <i>no later than</i>	Payment Amount
Thirty (30) calendar days following the effective date of this CA/FO.	U.S. \$49,410.00

73. 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 elects to send 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 elects to send 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 and Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, Missouri 63101
(314) 418-1028

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"

74. Respondent shall submit a copy of the payment to the following addresses:

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

And to:

Larry Lamberth
Chief, South Enforcement and Compliance Section
RCRA and OPA Enforcement and Compliance Branch
RCRA Division
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

75. 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 it is not paid within thirty (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 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 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 penalty is in addition to charges which accrue or may accrue under subparagraphs (a) and (b) of this Paragraph.

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

VII. PARTIES BOUND

77. This CA/FO shall be binding upon 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.

78. 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.

79. 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

80. 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.

81. 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.
82. 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 transportation, storage, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from Respondent's facility.
83. This CA/FO may be amended or modified only by written agreement executed by both the EPA and Respondent.

IX. OTHER APPLICABLE LAWS

84. 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

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

Marirose J. Pratt
Assistant Regional Counsel
Office of RCRA, OPA and UST Legal Support
U.S. EPA – Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
(404) 562-9023

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

David Pirkle, Owner
Pirkle, Inc.
598 Wells Street SW
Atlanta, Georgia 30312
(404) 525-1464

XI. SEVERABILITY

87. 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 shall not be affected thereby.

XII. EFFECTIVE DATE

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

In the matter of Pirkle, Inc., Docket No. RCRA -04-2012-4011(b)

AGREED AND CONSENTED TO:

Pirkle, Inc.

By: David W. Pirkle Jr. Dated: 9-10-12
David Pirkle Jr., Owner, Pirkle, Inc.

U.S. Environmental Protection Agency

By: César A. Zapata Dated: 9/12/12
César A. Zapata, Chief
RCRA and OPA Enforcement and Compliance Branch
RCRA Division

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 Pirkle, Inc., Docket Number: RCRA-04-2012-4011(b), and have served copies on each of the parties listed below in the manner indicated:

Marirose J. Pratt
Assistant Regional Counsel
Office of RCRA, OPA and UST Legal Support
U.S. EPA – Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
(404) 562-9441

(Via the EPA Electronic Mail)

David Pirkle, Owner
Pirkle, Inc.
598 Wells Street SW
Atlanta, Georgia 30312

(Via Certified Mail- Return Receipt
Requested)

Brooke York
RCRA and OPA Enforcement and
Compliance Branch
U.S. EPA - Region 4
61 Forsyth St., S.W.
Atlanta, Georgia 30303

(Via the EPA Electronic Mail)

Quantindra Smith
RCRA and OPA Enforcement and
Compliance Branch
U.S. EPA - Region 4
61 Forsyth St., S.W.
Atlanta, Georgia 30303

(Via the EPA Electronic Mail)

Date: 9-13-12



Patricia A. Bullock
Regional Hearing Clerk
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
(404) 562-9686