



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

LR-8J

CERTIFIED MAIL 7009 1680 0000 7667 0777
RETURN RECEIPT REQUESTED

Mr. Timothy J. Rohs
President
Barrel Plating Service, Inc.
3024 West Walnut Street
Milwaukee, WI 53208

Re: Consent Agreement and Final Order
Barrel Plating Service, Inc.
3024 West Walnut Street
Milwaukee, WI 53208
EPA I.D. No.: WIR000047654
Docket No:

Dear Mr. Rohs:

Enclosed, please find an original signed fully-executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The original was filed on NOV 21 2011, with the Regional Hearing Clerk.

Please pay the civil penalty in the amount of \$34,334 in the manner prescribed in paragraphs 61 and 62 of the CAFO, and reference all checks with the number BD ~~2751259R003~~ and Docket No.: RCRA-05-2012-0002. Also, enclosed is a *Notice of Securities and Exchange Commission Registrant's Duty to Disclose Environmental Legal Proceedings*. Your payment is due within 30 calendar days of the effective date of the CAFO. Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in cursive script that reads "Paul Little".

Paul Little
Acting Chief, RCRA Branch
Land and Chemicals Division

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REGIONAL HEARING CLERK
U.S. EPA REGION 5

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:)	Docket No. RCRA-05-2012-0002
)	
Barrel Plating Service, Inc.)	Proceeding to Commence and Conclude
3024 West Walnut Street)	an Action to Assess a Civil Penalty
Milwaukee, Wisconsin 53208)	Under Section 3008(a) of the Resource
)	Conservation and Recovery Act,
U.S. EPA ID # WIR000047654)	42 U.S.C. § 6928(a)
)	
Respondent.)	
)	

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 Land and Chemicals Division, United States Environmental Protection Agency (U.S. EPA), Region 5.

3. Respondent is Barrel Plating Service, Inc., a corporation doing business in the State of Wisconsin.

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

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.

11. Respondent certifies that it is complying fully with RCRA, 42 U.S.C. §§ 6901 – 6992k, and the regulations at 40 C.F.R. Parts 260 - 279.

Statutory and Regulatory Background

12. 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 3002, 3003, and 3004 of RCRA, 42 U.S.C. §§ 6922, 6923, and 6924.

13. 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. 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 Wisconsin 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. 3783 (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.

16. The Administrator of U.S. EPA may assess a civil penalty of up to \$25,000 per day for each violation of Subtitle C of RCRA according to Section 3008 of RCRA, 42 U.S.C. § 6928. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 note (1996), required U.S. EPA to adjust its penalties for inflation on a periodic basis. Pursuant to the Civil Monetary Penalty Inflation Adjustment Rule, published at 40 C.F.R. Part 19, U.S. EPA may assess a civil penalty of up to \$32,500 per day for each violation of Subtitle C of RCRA that occurred after March 15, 2004 through January 12, 2009, and may assess a civil penalty of up to \$37,500 per day for each violation of Subtitle C of RCRA that occurred after January 12, 2009.

General Allegations

17. Respondent was and is a "person" as defined by WAC NR 660.10(90), 40 C.F.R. § 260.10, and Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

18. At all times relevant to this CAFO, Respondent was the "operator" or "owner", as

those terms are defined under WAC NR 660.10(87) and (88) respectively, and 40 C.F.R. § 260.10, of a facility located at 5024 Walnut Street, Milwaukee, Wisconsin 53208 (Facility).

19. At all times relevant to this CAFO, Respondent's Facility consisted of land and structures, other appurtenances, and improvements on the land, used for storing hazardous waste.

20. Respondent's Facility is a "facility," as that term is defined under WAC NR 660.10(43)(a) and 40 C.F.R. § 260.10.

21. On November 19, 2009, U.S. EPA conducted a compliance evaluation inspection of the Facility (the "inspection").

22. During the inspection, the U.S. EPA inspector observed eight 55-gallon drums in the shipping and receiving area of Respondent's Facility.

23. The eight 55-gallon drums are all "containers," as that term is defined under WAC NR 660.10(14) and 40 C.F.R. § 260.10.

24. The eight 55-gallon drums were on pallets and the drums appeared to be full.

25. At the time of the inspection, Respondent did not know the contents of the eight 55-gallon drums.

26. At the time of the inspection, Respondent's President, Mr. Timothy J. Rohs, stated that the eight 55-gallon drums had been in the shipping and receiving area of Respondent's Facility since Respondent moved from its previous facility in 1999.

27. After the inspection, Respondent submitted chemical analyses of the eight 55-gallon drums to the U.S. EPA.

28. The chemical analyses showed that six of the eight 55-gallon drums contained "hazardous waste," as that term is defined in WAC NR 661.03 [40 C.F.R. § 261.3].

29. One of the 55-gallon drums contained 500 pounds of waste plating sludge,

consisting of cadmium, chromium, and selenium hazardous waste.

30. The waste plating sludge is a characteristic hazardous waste with waste codes of D006, D007, and D010.

31. One of the drums contained 55 gallons of “waste hypochlorite solutions.”

32. “Waste hypochlorite solution” is a characteristic hazardous waste with a waste code of D002.

33. One of the drums contained 55 gallons of “waste hydrofluoric acid.”

34. “Waste hydrofluoric acid” is a characteristic hazardous waste with a waste code of D002.

35. One of the drums contained 55 gallons of “waste perchloric acid.”

36. “Waste perchloric acid” is a characteristic hazardous waste with waste codes of D001 and D002.

37. Two of the drums contained 110 gallons of “waste oxidizing liquid” consisting of “sodium hypochlorite, sodium hydroxide.”

38. “Waste oxidizing liquid” consisting of “sodium hypochlorite, sodium hydroxide” is a characteristic hazardous waste with waste codes of D001 and D002.

39. The six (6) containers of hazardous waste referenced in paragraphs 28-38 will be referred to as the “six containers of hazardous waste.”

40. According to a Uniform Hazardous Waste Manifest (Tracking Number 006620070 JJK), Respondent sent the six containers of hazardous waste to a licensed disposal facility on or about December 23, 2009.

41. Respondent held the six containers of hazardous waste at its Facility since 1999 before they were shipped from the Facility for treatment, storage, or disposal elsewhere.

42. Respondent's holding of the six containers of hazardous waste constituted "storage," as that term is defined in WAC NR 660.10(112) and 40 C.F.R. § 260.10.

43. Respondent is subject to the regulations promulgated pursuant to Subtitle C of RCRA, 42 U.S.C. §§ 6921 - 6939e, or the analogous Wisconsin regulations as part of the applicable state hazardous waste management program for the State of Wisconsin, or both.

44. At all times relevant to this CAFO, the State of Wisconsin has not issued a license to Respondent to treat, store, or dispose of hazardous waste at the Facility.

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

45. Complainant incorporates paragraphs 1 through 44 of this CAFO as though set forth in this paragraph.

46. Pursuant to 3005(a) of RCRA, 42 U.S.C. § 6925(a) and the regulations at WAC NR Part 680 [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 license is prohibited.

47. At the time of the inspection, Respondent was storing the six containers of hazardous waste.

48. Respondent stored the six containers of hazardous waste since 1999 without applying for or obtaining a license.

49. Respondent's storage of hazardous waste without a hazardous waste storage license or interim status violated Section 3005 of RCRA, 42 U.S.C. § 6925(a) and the requirements of WAC NR 670.001(2)-(3), 670.010(1), (4), and 670.013 [40 C.F.R. §§ 270.1(c) and 270.10(a) and (d), and 270.13].

Count 2: Failure To Obtain General Waste Analysis

50. Complainant incorporates paragraphs 1 through 44 of this CAFO as though set forth in this paragraph.

51. As an owner or operator of hazardous waste treatment, storage, or disposal facility, Respondent is subject to the requirement of WAC NR 664.0013(1)(a) [40 C.F.R. § 264.13(a)(1)].

52. WAC NR 664.0013(1)(a) [40 C.F.R. § 264.13(a)(1)] requires the owner or operator of a TSDF to obtain a detailed chemical and physical analysis of a representative sample of waste before it treats, stores, or disposes of any hazardous wastes.

53. At the time of the inspection and since approximately 1999, Respondent had not obtained a detailed chemical and physical analysis of a representative sample of the six containers of hazardous waste.

54. Respondent's failure to obtain a detailed chemical and physical analysis of a representative sample of the six containers of hazardous waste violated WAC NR 664.0013(1)(a) [40 C.F.R § 264.13(a)(1)].

Count 3: Failure to Conduct Inspections of Hazardous Waste Storage Area

55. Complainant incorporates paragraphs 1 through 44 of this CAFO as though set forth in this paragraph.

56. As an owner and operator of a hazardous waste treatment, storage, or disposal facility, Respondent is subject to the requirements of WAC NR 664.0174 [40 C.F.R. § 264.174].

57. WAC NR 664.0174 [40 C.F.R. § 264.174] requires owners or operators of all hazardous waste facilities that store containers of hazardous waste to, at least weekly, inspect areas where containers of hazardous waste are stored looking for leaking containers or

deterioration of containers and the containment system caused by corrosion or other factors.

58. At the time of the inspection, Respondent stored the six containers of hazardous waste in its shipping and receiving area.

59. At the time of the inspection and since approximately 1999, Respondent had not conducted inspections of the area where it stored the six containers of hazardous waste.

60. Respondent's failure to conduct inspections of the area where it stored the six containers of hazardous waste at least weekly violated WAC NR 664.0174 [40 C.F.R. § 264.174].

Civil Penalty

61. 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 \$34,334. 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. Complainant also considered U.S. EPA's RCRA Civil Penalty Policy, dated June 23, 2003.

62. Respondent must pay the penalty in paragraph 61 as follows:

<u>Installment</u>	<u>Due By</u>	<u>Principal</u>	<u>Interest (1%)</u>	<u>Payment</u>
Payment #1	Within 30 days of effective date of CAFO	\$24,000	\$0	\$24,000
Payment #2	Within 90 days of effective date of CAFO	\$2,573.84	\$25.83	\$2,599.67
Payment #3	Within 180 days of effective date of CAFO	\$2,580.27	\$19.40	\$2,599.67
Payment #4	Within 270 days of effective date of CAFO	\$2,586.72	\$12.95	\$2,599.67
Payment #5	Within 360 days of effective date of CAFO	\$2,593.17	\$6.48	\$2,599.67

Respondent must pay the installments by sending cashier's checks, payable to "Treasurer, United States of America," via regular U.S. Post Service mail to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

The checks must state In the Matter of Barrel Plating Service, Inc., the docket number of this CAFO and the billing document number.

63. A transmittal letter, stating, Respondent's name, the case title, Respondent's complete address, the case docket number and the billing document number must accompany each payment. Respondent must send a copy of the checks and transmittal letters to:

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Bryan Gangwisch (LR-8J)
RCRA Branch
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Gary Steinbauer (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

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

65. If Respondent does not pay an installment payment as set forth in paragraph 62, above, the entire unpaid balance of the civil penalty and any amount required by paragraph 66, below, shall become due and owing upon written notice by U.S. EPA to Respondent of the

delinquency. 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.

66. 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.

General Provisions

67. This CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts alleged in the CAFO.

68. 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.

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

70. 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).

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

72. 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.

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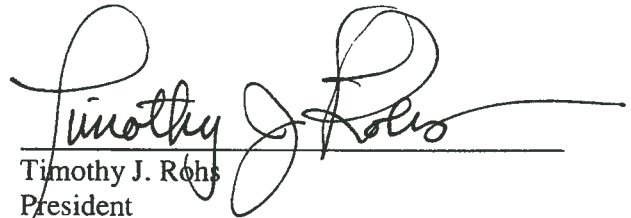
73. Each party agrees to bear its own costs and attorney's fees in this action.

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

Barrel Plating Service, Inc., Respondent

10-04-2011

Date



Timothy J. Rohs
President
Barrel Plating Service, Inc.

United States Environmental Protection Agency, Complainant

11/14/11

Date



Margaret M. Guerriero
Director
Land and Chemicals Division




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In the Matter of:
Barrel Plating Service, Inc.
Docket No. RCRA-05-2012-0002

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.

11-16-11
Date



Susan Hedman
Regional Administrator
United States Environmental Protection Agency
Region 5

CASE NAME: BARREL PLATING SERVICE, INC.
DOCKET NO: RCRA-05-2012-0002

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CERTIFICATE OF SERVICE


I hereby certify that today I filed the original of this **Consent Agreement and Final Order** and this **Certificate of Service** in the office of the Regional Hearing Clerk (E-19J), United States Environmental Protection Agency, Region V, 77 West Jackson Boulevard, Chicago, Illinois 60604 -3590.

I further certify that I then caused a true and correct copy of the filed document to be mailed on the date below, via Certified Mail, Return Receipt Requested to:

Mr. Timothy J. Rohs
President
Barrel Plating Service, Inc.
3024 West Walnut Street
Milwaukee, WI 53208

Certified Mail Receipt # 7009 1680 0000 7667 0777

Dated: 11-21 2011


Margaret Gray
Administrative Program Assistant
U.S. Environmental Protection Agency

Region V
RCRA Branch
Land and Chemicals Division LR-8J
77 W. Jackson Blvd, Chicago, IL 60604-3590