

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 2

Filed August 5, 2020 @ 9:03am

USEPA – Region II

Regional Hearing Clerk

In the Matter of:

**Cadillac Uniform & Linen Supply, LLC**

Respondent

Proceeding under Section 3008 of the Solid Waste Disposal Act, as amended, 42 U.S.C. § 6928

**CONSENT AGREEMENT AND FINAL ORDER**

Docket No. RCRA-02-2019-7104

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**CONSENT AGREEMENT AND FINAL ORDER**

Complainant, the United States Environmental Protection Agency (“EPA”), having issued the Complaint referenced herein on December 20, 2018, against Cadillac Uniform & Linen Supply, LLC (“Respondent”); and

Complainant and Respondent having agreed that settlement of this matter is in the public interest, and that entry of this Consent Agreement and Final Order (“CA/FO”) without further litigation is the most appropriate means of resolving this matter;

NOW, THEREFORE, before the taking of any testimony, upon the pleadings, without adjudication of any issue of fact or law, and upon consent and agreement of the Parties, it is hereby agreed, and ordered as follows:

**PRELIMINARY STATEMENT**

1. This civil administrative proceeding was instituted pursuant to Section 3008 of the Solid Waste Disposal Act, as amended by various laws including the Resource Conservation and Recovery Act, and the Hazardous and Solid Waste Amendments of 1984, 42 United States Code (U.S.C.) §§ 6901-6991 (together hereafter the “Act” or “RCRA”).
2. The Complainant in this proceeding, the Director of the Caribbean Environmental Protection Division, Region 2 EPA, has been duly delegated the authority to institute and carry forward this proceeding.
3. The Respondent is Cadillac Uniform & Linen Supply, LLC, d/b/a “Cadillac Group of Companies” (“Respondent”).
4. Under Section 3006(b) of the Act, 42 U.S.C. § 6926(b), the Administrator of EPA may, if

certain criteria are met, authorize a state to operate a “hazardous waste program” (within the meaning of Section 3006 of the Act, 42 U.S.C. § 6926) in lieu of the federal hazardous waste program. The Commonwealth of Puerto Rico (“Puerto Rico”) is a “State” within the meaning of this provision. However, Puerto Rico is not authorized by EPA to conduct hazardous waste management programs under Section 3006 of RCRA, 42 U.S.C. § 6926. Therefore, EPA retains primary responsibility for the implementation and enforcement of RCRA’s hazardous waste regulations in the Commonwealth of Puerto Rico.

5. The Complainant issued a Complaint, Compliance Order and Notice of Opportunity for Hearing (the “Complaint”) to Respondent on December 20, 2018. The Complaint alleged that Respondent failed to comply with certain RCRA and hazardous waste regulations at its industrial laundry facility. Complainant and Respondent conducted settlement negotiations. During those negotiations, Respondent presented new information which altered EPA’s views on certain allegations in the Complaint. These discussions led to this agreement without any formal amendment of the Complaint.
6. Complainant and Respondent agree, by entering into this CA/FO, that settlement of all allegations contained in the Complaint upon the terms set forth in this CA/FO is an appropriate means of resolving this case without further litigation.
7. This CA/FO shall apply to and be binding upon EPA and Respondent, its officers, directors, employees, successors and assigns.
8. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in the Complaint. Respondent waives any defenses it might have as to jurisdiction and venue, and, without admitting or denying the factual or legal allegations contained in the Complaint, consents to the terms of this CA/FO.
9. Respondent hereby waives its right to a judicial or administrative hearing or appeal on any issue of law or fact set forth in the Complaint.
10. Respondent hereby certifies compliance with all the ordered provisions in the Complaint.

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**EPA’S FINDINGS OF FACT AND CONCLUSIONS OF LAW**

11. Respondent is a for-profit corporation organized under the laws of the Commonwealth of Puerto Rico, engaged in the industrial laundry business.
12. Respondent is and has been at all relevant times a “person” as that term is defined in Section 1004(15) of the Act, 42 U.S.C. § 6903(15) and 40 C.F.R. § 260.10.
13. Respondent owns and operates an industrial laundry facility at 221 Laurel Avenue, Minillas Industrial Park, Bayamón, Puerto Rico, 00959 (hereinafter the “Facility”).
14. Respondent’s Facility constitutes a “facility,” within the meaning of 40 C.F.R. § 260.10.
15. Respondent is and has been at all relevant times the “owner” of the Facility as that term is

defined in 40 C.F.R. § 260.10.

16. Respondent is and has been at all relevant times the “operator” of the Facility as that term is defined in 40 C.F.R. § 260.10.
17. On or about January 1, 2008, Cadillac submitted a Notification of Hazardous Waste Activity as a conditionally exempt small quantity generator of hazardous waste.
18. In response to Cadillac’s Notification of Hazardous Waste Activity, EPA assigned the Facility EPA Identification Number PRD09001457.
19. Respondent is and has been at all relevant times a “generator” of “hazardous waste,” as those terms are defined in 40 C.F.R § 260.10, at the Facility.
20. Respondent, among other operations, transports “solvent-contaminated wipes” as that term is defined in 40 C.F.R § 260.10, from and generated at other facilities to the Facility for cleaning and reuse.
21. Solvent contaminated wipes are not solid wastes from the point of generation *provided* the wipes are accumulated, stored and transported pursuant to requirements set forth in 40 C.F.R. § 261.4(a)26 (“Solvent-Contaminated Wipes Rule”).
22. Respondent receives for transport solvent-contaminated wipes generated at industrial facilities, including Essentra in Guaynabo, Puerto Rico and Medtronic Operations PR in Villalba, Puerto Rico, to the Facility for cleaning and reuse.
23. On April 24, 2017,<sup>1</sup> an EPA Inspector conducted a Compliance Evaluation Inspection of the Facility pursuant to Section 3007 of RCRA, 42 U.S.C. § 6927.
24. On April 11, 2018, the EPA Inspector conducted a second Compliance Evaluation Inspection at the Facility.

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**FIRST VIOLATION ALLEGED IN THE COMPLAINT  
FAILURE TO MAKE HAZARDOUS WASTE DETERMINATION**

25. Pursuant to 40 C.F.R. § 261.2, subject to certain exclusions, a “solid waste” is any “discarded material” including “abandoned,” “recycled” or considered “inherently waste-like materials,” as those terms are further defined therein.
26. Pursuant to 40 C.F.R. § 261.2(b), “materials” are solid waste if they are abandoned by being disposed of; or burned or incinerated; or accumulated, stored or treated (but not

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<sup>1</sup> The EPA Facility Inspection Report and the Complaint state that the Compliance Evaluation Inspection (“CEI”) was conducted on April 24, 2017. Nonetheless, the Inspector’s notes from the CEI indicate that the CEI was performed on April 27, 2017. In addition, Respondent informed EPA that the Facility’s entrance logbook reflects that the EPA CEI inspector visited the Facility on April 27, 2017. Complainant and Respondent agree, however, that this incongruence is immaterial for purposes of this CA/FO as the fact remains that only one CEI took place in April 2017, for purposes of the Complaint.

recycled) before or in lieu of being abandoned by being disposed of, burned or incinerated; or sham recycled.

27. Pursuant to 40 C.F.R. § 262.11, a person who generates a solid waste, as defined in 40 C.F.R. § 261.2, must determine if that waste is a hazardous waste.
28. Prior to EPA's inspection on April 24, 2017,<sup>2</sup> Respondent generated the following material at the Facility:
  - a. one (1) 30-gallon white container labeled with the words "*Precaución Coolant Usado del Generador*" at the Hazardous Waste Container Area; and
  - b. one (1) 55- gallon white plastic drum labeled with the words "*This Container On Hold Pending Analysis – Contains: Lubricant*" at the Hazardous Waste Container Area.
29. Prior to EPA's inspection on April 11, 2018, Respondent generated the following material at the Facility:
  - a. one (1) 55-gallon white plastic drum labeled with the words "*Diesel Bunker*" contaminated with solid particles at the Hazardous Waste Container Area;
  - b. one (1) 55-gallon black-red steel drum labeled with the words "*Damaged Diesel*" contaminated with solid particles at the Hazardous Waste Container Area;
  - c. one (1) 250-gallon tote white plastic drum labeled with the words "*Diesel*" contaminated with solid particles at the Hazardous Waste Container Area; and
  - d. one (1) unidentified 5 – gallon white container at the Hazardous Waste Container Area.
30. The materials identified in paragraphs 28 and 29 are "solid waste" as defined in 40 C.F.R. § 261.2.
31. The materials identified in paragraphs 28 and 29 were "abandoned" as the term is defined in 40 C. F. R. 261.2 (b) (3) in the Hazardous Waste Container Area.
32. As of at least April 24,<sup>3</sup> 2017, Respondent failed to make a hazardous waste determination for the solid waste described in paragraph 28.
33. As of at least April 11, 2018, Respondent failed to make a hazardous waste determination for the solid waste described in paragraph 29.
34. Respondent's failure to make a hazardous waste determination for the solid waste generated at the Facility constitutes a violation of 40 C.F.R. § 262.11.

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<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

35. Respondent's failure to comply with 40 C.F.R. § 262.11 subjects it to penalties and injunctive relief pursuant to Section 3008 of the Act, 42 U.S.C. § 6928.

**SECOND VIOLATION ALLEGED IN THE COMPLAINT**  
**OPERATION OF HAZARDOUS WASTE TREATMENT, STORAGE OR DISPOSAL FACILITY WITHOUT**  
**A RCRA PERMIT**

36. Pursuant to 40 C.F.R. § 260.10, a "solvent-contaminated wipe" is a wipe that, after use or after cleaning up a spill, either: contains one or more of the F001 through F005 solvents listed in 40 C.F.R. § 261.31 or the corresponding P- or U- listed solvents found in 40 C.F.R. § 261.33; exhibits a hazardous characteristic found in 40 C.F.R. part 261 subpart C when that characteristic results from a solvent listed in 40 C.F.R. part 261; and/or exhibits only the hazardous waste characteristic of ignitability found in 40 C.F.R. § 261.21 due to the presence of one or more solvents that are not listed in 40 C.F.R. part 261.
37. Pursuant to 40 C.F.R. § 260.10, a "wipe" is a woven or non-woven shop towel, rag, pad, or swab made of wood pulp, fabric, cotton, polyester blends, or other material.
38. Pursuant to 40 C.F.R. § 261.4(a)(26), solvent-contaminated wipes that are sent for cleaning and reuse are not solid wastes from the point of generation, provided that the conditions of the exclusion in 40 C.F.R. § 261.4(a)(26)(i)-(vi) are met.
39. Pursuant to 40 C.F.R. § 261.4(a)(26)(i), the solvent-contaminated wipes, when accumulated, stored, and transported, must be contained in non-leaking, closed containers that are labeled "*Excluded Solvent-Contaminated Wipes*," and are able to contain free liquids.
40. Pursuant to 40 C.F.R. § 261.4(a)(26)(i), when the container is full, or when the solvent-contaminated wipes are no longer being accumulated, or when the container is being transported, the container must be sealed with all lids properly and securely affixed to the container and all openings tightly bound or closed sufficiently to prevent leaks and emissions.
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41. Respondent receives for transport, accumulates, stores and cleans "solvent-contaminated wipes" as that term is defined in 40 C.F.R. § 260.10.
42. As of at least April 24,<sup>4</sup> 2017, Respondent received and transported, and stored solvent-contaminated wipes at, the Facility in containers that were not labeled with the words "*Excluded Solvent-Contaminated Wipes*," as follows:
- a. three (3) 30-gallon blue plastic containers filled with solvent-contaminated wipes, labeled with the words "*Medtronics Paños Verificados Ruta 36C*" at the Clean Room Warehouse Area; and

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<sup>4</sup> *Id.*

- b. various Cadillac's trucks transporting blue plastic containers, labeled with the words "Medtronics Paños Verificados Ruta 36C" that were unloaded at the Clean Room Warehouse Area.
43. As of at least April 11, 2018, Respondent stored solvent-contaminated wipes in containers that were not sealed, not able to contain free liquid and not labeled with the words "Excluded Solvent-Contaminated Wipes," as follows:
- a. four (4) 30 – gallon blue plastic containers with solvent-contaminated wipes at the Clean Room Warehouse Area;
  - b. one (1) 55-gallon blue plastic drum with solvent – contaminated wipes at the Clean Room Warehouse Area;
  - c. two (2) open carts containing solvent- contaminated wipes at the Clean Room Warehouse Area;
  - d. carts storing solvent – contaminated wipes which were downloaded from two Cadillac trucks at the Clean Room Warehouse Area; and
  - e. one (1) green open textile bag storing solvent – contaminated wipes at the Clean Room Warehouse Area;
44. As of at least April 11, 2018, Respondent transported solvent – contaminated wipes in carts rather than a sealed container.
45. On at least April 24, 2017 and April 11, 2018, Respondent failed to comply with all applicable conditions set forth in 40 C.F.R. §261.4(a)(26).
46. *MBS* The solvent-contaminated wipes received for transport and delivered to the Facility for reuse and cleaning were not exempt from the definition of solid waste since Respondent failed to comply with the conditions set forth in 40 C.F.R. §261.4(a)(26). These wipes contained F-solvents and/or exhibited the characteristic of ignitability.
47. Solvent-contaminated wipes received for transport and stored at the Facility constituted "solid waste" and "hazardous waste" as those terms are defined in 40 C.F.R. § 260.10.
48. Pursuant to Section 3005 of RCRA, 42 U.S.C. §6925, the operation of a hazardous waste treatment, storage or disposal facility without interim status or a permit is prohibited.
49. Pursuant to 40 C.F.R. 270.1(c) a permit is required for the treatment, storage, and disposal of any hazardous waste.
50. Respondent's hazardous waste storage without having interim status or a permit constitutes a violation of Section 3005 of RCRA and 40 C.F.R. § 270.1(c).

**THIRD VIOLATION ALLEGED IN THE COMPLAINT  
FAILURE TO LABEL OR MARK CLEARLY USED OIL STORAGE CONTAINERS**

51. Pursuant to 40 C.F.R. § 279.1, “used oil” means any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of such use is contaminated by physical or chemical impurities.
52. Pursuant to 40 C.F.R. § 279.1, a “used oil generator” is any person, by site, whose act or process produces used oil or whose act first causes used oil to become subject to regulation.
53. Respondent is a “used oil generator” as that term is defined in 40 C.F.R. § 279.20.
54. Pursuant to 40 C.F.R. § 279.22(c)(1), containers used to store used oil at generator facilities must be labeled or marked clearly with the words “used oil.”
55. Prior to at least April 11, 2018, Respondent stored used oil generated at the Facility in three (3) containers at the Mechanic Shop Area that were not labeled or marked clearly with the words “used oil”:
  - a. one (1) 55-gallon black steel drum unlabeled filled with used oil filters;
  - b. one (1) 30-gallon red steel container unlabeled filled with rags stained with used oil; and
  - c. one (1) 55-gallon black steel drum with a ring containing used oil filters and used oil.
56. Respondent’s failure to properly label or mark clearly containers used to store “used oil” constitutes a violation of 40 C.F.R. § 279.22.

**RESPONDENT’S LIABILITY**

57. Respondent’s failure to comply with 40 C.F.R. §§ 262.11, 270.1, 279.22 and Section 3005 of RCRA subjects it to penalties and injunctive relief pursuant to Section 3008 of the Act, 42 U.S.C. § 6928.

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**CONSENT AGREEMENT**

58. For the purpose of this proceeding, Respondent admits the jurisdictional allegations of the Complaint. Respondent neither admits nor denies specific factual allegations contained in the Complaint and the above EPA’s Findings of Facts and Conclusions of Law.
59. Respondent shall comply with the requirements applicable to: the generators of solid waste set forth in 40 C.F.R. § 262.11; the management of solvent-contaminated wipes set forth in 40 C.F.R. § 261.4 (a)(26); used oil generators set forth in 40 C.F.R. § 279.

60. Respondent shall pay a civil penalty to EPA in the total amount of twenty thousand dollars (\$20,000.00). The total civil penalty amount shall be paid in one payment made by cashier's or certified checks or by Electronic Fund Transfers (EFT). If the payment is made by check, then the check shall be made payable to the "Treasurer, United States of America," and shall be mailed to:

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

61. The check shall be identified with a notation thereon: **In the Matter of: Cadillac Uniform & Linen Supply, LLC.**, and shall bear thereon the Docket Number: **RCRA-02-2019-7104**. If Respondent chooses to make the payment by EFT, then Respondent shall provide the following information to its remitter bank:

- 1) Amount of Payment
- 2) SWIFT address: FRNYUS33, 33 Liberty Street, New York, NY 10045.
- 3) Account Code for Federal Reserve Bank of New York receiving payment: 68010727.
- 4) Federal Reserve Bank of New York ABA routing number: 021030004.
- 5) Field Tag 4200 of the Fedwire message should read: "D68010727 Environmental Protection Agency."
- 6) Name of Respondent: **Cadillac Uniform & Linen Supply, LLC**
- 7) Case Number: **RCRA-02-2019-7104**

62. Whether the payment is made by check or by EFT, the Respondent shall promptly thereafter furnish reasonable proof that such payment has been made to:

Suzette M. Meléndez Colón  
Office of Regional Counsel-Caribbean Team  
U.S. Environmental Protection Agency - Region 2  
[melendez-colon.suzette@epa.gov](mailto:melendez-colon.suzette@epa.gov)

and

Karen Maples  
Regional Hearing Clerk  
U.S. Environmental Protection Agency- Region 2  
[maples.karen@epa.gov](mailto:maples.karen@epa.gov)

63. Respondent shall pay the amount of twenty thousand dollars (\$20,000.00) within thirty (30) calendar days after the effective date, as defined below in paragraph 73, of the Final Order. Counsel for Complainant will inform the Respondent on the date of filing with the Regional Hearing Clerk, U.S. EPA, Region 2. The date by which the payment must be received shall hereinafter be referred to as the "Due Date."

- a. Failure to pay the civil penalty in full according to the above provisions may result in referral of this matter to the United States Department of Justice or the United States Department of the Treasury for collection.
- b. Further, if the payment is not received on or before the Due Date, interest will be assessed at the annual rate established by the Secretary of the Treasury pursuant to the Debt Collection Act, 31 U.S.C. § 3717, on the overdue amount from the due date through the date of payment. In addition, a late payment handling charge of fifteen dollars (\$15.00) will be assessed for each thirty (30) day period (or any portion thereof) following the due date in which the balance remains unpaid. A six percent (6%) per annum penalty will also be applied on any principal amount not paid within ninety (90) days of the Due Date.
- c. The civil penalty constitutes a penalty within the meaning of 26 U.S.C. § 162(f).

#### GENERAL PROVISIONS

64. Full payment of the penalty described in paragraph 63 of this CA/FO shall only resolve Respondent's liability for federal civil penalties for the violation(s) and facts alleged in the Complaint issued in this matter. Full payment of this penalty shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.
65. Respondent has read the Consent Agreement, understands its terms, finds it to be reasonable and consents to its terms. Respondent consents to the issuance of the accompanying Final Order. Respondent agrees that all the terms of the settlement are set forth herein.
66. This CA/FO and any provision herein shall not be used or construed as an admission of liability in any criminal or civil action or other administrative proceeding, except in an action, suit or proceeding to enforce this CA/FO or any of its terms and conditions.
67. Respondent waives its right to request a hearing on the Complaint, this Agreement, or the Final Order included herein, including any right to contest any allegations or EPA's Findings of Fact or Conclusions of Law contained within these documents.
68. This CA/FO does not waive, extinguish, or otherwise affect Respondent's obligation to comply with all applicable provisions of the Act and the regulations implementing it, nor shall it be construed as the issuance of a permit or a ruling on, or determination of, any issues related to any federal, Commonwealth or local law, regulation or permit.
69. Each party shall bear its own costs and fees in this matter.
70. The provisions of this CA/FO shall be binding upon both Complainant and Respondent along with their authorized representatives and successors or assigns.
71. This CA/FO is not intended to and shall not be construed to give any third party any interest

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or rights (including, without limitation, any third party beneficiary rights) with respect to or in connection with any agreement or provision contained herein or contemplated hereby and is not intended to affect any recourse against any third party that Respondent may have based on the facts alleged in the Complaint.

72. Respondent consents to service upon Respondent by a copy of this CA/FO by an EPA employee other than the Regional Hearing Clerk.
73. The effective date of this CA/FO shall be the date of filing with the Regional Hearing Clerk, U.S. EPA, Region 2, New York, New York.

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RESPONDENT:

Cadillac Uniform & Linen Supply, LLC

BY:



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NAME: Michael B. Shulevitz

TITLE: President

DATE: 27-May-2020

COMPLAINANT:

United States Environmental Protection  
Agency - Region 2

CARMEN Digitally signed by  
GUERRERO CARMEN  
PEREZ GUERRERO PEREZ  
Date: 2020.06.30  
12:21:11 -04'00'

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BY:

NAME: Carmen Guerrero Pérez

TITLE: Director, Caribbean  
Environmental Protection  
Division

DATE: June 30, 2020

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**FINAL ORDER**

The Regional Judicial Officer of the U.S. Environmental Protection Agency, Region 2, ratifies the foregoing Consent Agreement. The Agreement entered into by the parties is hereby approved, incorporated herein, and issued as an Order pursuant to Section 3008 of the Act and 40 C.F.R. § 22.18(b)(3). The effective date of this Order shall be the date of filing with the Regional Hearing Clerk, U.S. EPA, Region 2, New York, New York 10007.

HELEN  
FERRARA  
Helen S. Ferrara  
Regional Judicial Officer  
EPA-Region 2

Digitally signed by HELEN  
FERRARA  
Date: 2020.08.04 13:07:13  
-04'00'

DATE: \_\_\_\_\_

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**CERTIFICATE OF SERVICE**

I hereby certify that on this date I caused to be mailed a true and correct copy of the Consent Agreement and Final Order entered in In the Matter of: Cadillac Uniform & Linen Supply, LLC Docket No.: RCRA-02-2019-7104, by the following matter:

A copy by CERTIFIED MAIL WITH RETURN RECEIPT REQUESTED:

Jerry Lucas Marrero, Esq.  
Antonio Collazo Bennazar, Esq.  
O'Neill & Borges LLC  
250 Muñoz Rivera Avenue  
Suite 800  
San Juan, PR 00918-1813

The original and a copy BY HAND:

Karen Maples  
Regional Hearing Clerk  
U.S. EPA – Region 2  
290 Broadway, 16th Floor  
New York, New York 10007

Date: 8/4/2020

By:   
Office of Regional Counsel

Location: Guaynabo, PR

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