

FILED

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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

REGIONAL HEARING CLERK
EPA REGION VI

IN THE MATTER OF:

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CONSENT AGREEMENT
AND FINAL ORDER

HOUSTON PLATING AND
COATINGS, LLC

Docket No. RCRA-06-2016-0947

WILMINGTON, DELAWARE

RESPONDENT

CONSENT AGREEMENT AND FINAL ORDER

I. PRELIMINARY STATEMENT

1. This Consent Agreement and Final Order (CAFO) is entered into by the United States Environmental Protection Agency Region 6 (EPA or Complainant) and Houston Plating and Coatings, LLC (Respondent), and concerns the facility located at 6325 Cameron, Scott, Louisiana (Scott facility).

2. Notice of this action has been given to the State of Louisiana, under Section 3008(a)(2) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a)(2).

3. For purposes of this CAFO, the relevant Louisiana Administrative Code, Title 252, Chapter 205, Sections 252:205-3-2 has incorporated by reference 40 C.F.R. Parts 260, 262, 265, and 270.

4. For the purpose of these proceedings, Respondent admits the jurisdictional allegations herein. However, Respondent neither admits nor denies the specific factual allegations and conclusions of law contained in this CAFO. This CAFO states a claim upon which relief may be granted.

5. Respondent explicitly waives any right to contest the allegations and its right to appeal the proposed final order contained in this CAFO, and waives all defenses that have been raised or could have been raised to the claims set forth in the CAFO.

6. This CAFO resolves only those violations that are alleged herein.

7. Respondent consents to the following: issuance of the CAFO hereinafter recited; the assessment and payment of the stated civil penalty in the amount and by the method set out in this CAFO; and to the specific stated compliance order.

II. JURISDICTION

8. This CAFO is issued by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), as amended by the Hazardous and Solid Waste Amendments of 1984, and is simultaneously commenced and concluded through the issuance of this CAFO under 40 C.F.R. §§ 22.13(b), 22.18(b)(2), and 22.18(b)(3).

9. Respondent agrees to undertake and complete all actions required by the terms and conditions of this CAFO. In any action by the EPA or the United States to enforce the terms of this CAFO, Respondent agrees not to contest the authority or jurisdiction of the EPA to issue or enforce this CAFO. Furthermore, Respondent agrees not to contest the validity of this CAFO, or its terms or conditions.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

10. Respondent is a Delaware limited liability company registered to do business in the State of Louisiana on August 1, 2011.

11. Respondent's registered agent in Louisiana is Capitol Corporate Services, Inc., located at 8550 United Plaza Building II, Suite 305, Baton Rouge, Louisiana.

12. Respondent is a "person" within the meaning of Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), (40 C.F.R. § 260.10); and within the meaning of LA. ADMIN. CODE 33:V.109 (40 C.F.R. § 260.10).

13. Respondent is an "owner" or "operator" of the Scott facility within the meaning of LA. ADMIN. CODE 33:V.109 (40 C.F.R. §260.10).

14. Respondent is a "generator" of "hazardous waste" at the Scott facility, as the terms are defined in LA. ADMIN. CODE 33:V.109 (40 C.F.R. § 260.10).

15. As a generator of hazardous waste, Respondent is subject to Sections 3002 and 3010 of RCRA, 42 U.S.C. §§ 6922 and 6930, and the regulations set forth at 42 U.S.C. §§ 6922 and 6930, and the regulations set forth at LA. ADMIN. CODE 33:V.Chapters 1 through 51 (40 C.F.R. §§ 262 and/or 270).

16. Between October 2015 and June 2016, EPA conducted an investigation and record review (Investigation) of Respondent's performance as a hazardous waste generator and compliance with RCRA and the regulations promulgated thereunder.

17. From the Investigation, EPA determined that from 2013 to the effective date of the CAFO, Respondent's Scott facility, while operating as a large quantity generator (LQG), did not meet the requirements of a LQG pursuant to the applicable parts of LA. ADMIN. CODE 33:V.Chapters 1 through 51 (40 C.F.R. Parts 124, 262-68, 270).

Scott Facility

Claim 1: Failure to Operate Within Proper Generator Status

18. Complainant hereby restates and incorporates by reference Paragraphs 1 through 17.

19. A generator of hazardous waste is subject to certain requirements, including the applicable parts of LA. ADMIN. CODE 33:V.Chapters 1 through 51 (40 C.F.R. Parts 124, 262-68, 270).

20. From the investigation, EPA determined that while operating as a LQG during the relevant years, Respondent failed to comply with various sections of the applicable LQG requirements.

21. Based on the obligations set forth above, EPA concluded Respondent did not operate within its designated status from 2013 to the effective date of the CAFO in violation of LA. ADMIN. CODE 33:V.Chapters 1 through 51 (40 C.F.R. § 262 and/or 270).

IV. COMPLIANCE ORDER

22. Pursuant to RCRA § 3008(a), 42 U.S.C. § 6928(a), Respondent is hereby ordered to take the following actions, and within ninety (90) calendar days of the effective date of this CAFO, Respondent shall certify the following:

- a. Respondent is no longer a generator of hazardous waste at the Scott facility, or,
- b. Respondent has developed and implemented standard operating procedures to ensure that it is operating in compliance with RCRA and the regulations promulgated thereunder. This includes, but is not limited to, procedures for:
 - i. making hazardous waste determinations;
 - ii. training personnel involved in managing, reporting, transporting, and disposing of hazardous waste;
 - iii. preparing hazardous waste manifests; and
 - iv. meeting the requirements of the land disposal restrictions.

23. In all instances in which this CAFO requires written submission to EPA, the submittal made by Respondent shall be signed by an owner or officer of Houston Plating and Coatings, LLC, and shall include the following certification:

I certify under the penalty of law that this document and all its attachments were prepared by me or under my direct supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage

the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Copies of all documents required by the CAFO shall be sent to the following:

Ashley Pederson
U.S. Environmental Protection Agency
Compliance Assurance and Enforcement Division
Waste Enforcement Branch
Waste Compliance III Section (6EN-H3)
1445 Ross Avenue
Dallas, Texas 75202-2733

V. TERMS OF SETTLEMENT

A. Penalty Provisions

24. Pursuant to the authority granted in Section 3008 of RCRA, 42 U.S.C. § 6928, and upon consideration of the entire record herein, including the above referenced Findings of Fact and Conclusions of Law, which are hereby adopted and made a part hereof, upon the seriousness of the alleged violations, and Respondent's good faith efforts to comply with the applicable regulations, it is ordered that Respondent be assessed a civil penalty of \$22,700.00. This penalty is calculated concurrently and in conjunction with the Consent Agreement and Final Order for the matter of Houston Plating and Coatings, LLC: Docket No. RCRA-06-2016-0946.

25. The penalty shall be paid in twenty-four (24) monthly installments of \$945.83, beginning within thirty (30) calendar days of the effective date of this CAFO and made payable to Treasurer, United States of America. For purposes of this CAFO, an installment will not be considered overdue, subject to interest and late payments found at Paragraph 28, if paid by the last day of the month in which that installment is due.

26. The following are Respondent's options for transmitting the penalties:

Checks sent via U.S. Postal Mail (including certified mail) or U.S. Postal Service Express Mail should be remitted to:

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

Checks sent via Overnight Mail (non-U.S. Postal Service) should be remitted to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines and Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101
314-418-1028

Wire Transfers should be remitted to:

Federal Reserve Bank of New York
ABA: 021030004
Account No. 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045

The case name and docket number (In the Matter of Houston Plating and Coatings, LLC,

Docket No. RCRA-06-2016-0947) shall be documented on or within your chosen method of payment to ensure proper credit.

27. The Respondent shall send a simultaneous notice of such payment to the following:

Lorena S. Vaughn
Regional Hearing Clerk (6RC-D)
U.S. EPA, Region 6
1445 Ross Avenue
Dallas, TX 75202-2733

Mark Potts, Chief
Waste Enforcement Branch (6EN-II)
Compliance Assurance and Enforcement Division
U.S. EPA, Region 6
1445 Ross Avenue
Dallas, TX 75202-2733
Attn: Ashley Pederson

Your adherence to this request will ensure proper credit is given when penalties are received by EPA.

28. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, unless otherwise prohibited by law, EPA will assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest on the civil penalty assessed in this CAFO will begin to accrue on the effective date of the CAFO and will be recovered by EPA on any amount of the civil penalty that is not paid within thirty (30) calendar days of the civil penalty's due date and will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a). Moreover, the costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue in accordance with 40 C.F.R. § 13.11(b). EPA will also assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) day period the penalty remains unpaid. In addition, a penalty charge of up to six percent per year will be assessed monthly on any portion of the debt that remains delinquent more than ninety (90) days pursuant to 40 C.F.R. § 13.11(b). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent pursuant to 31 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

B. Costs

29. Each party shall bear its own costs and attorney's fees. Furthermore, Respondent specifically waives its right to seek reimbursement of its costs and attorney's fees under the Equal Access to Justice Act (5 U.S.C. § 504), as amended by the Small Business Regulatory Enforcement Fairness Act (P.L. 04-121), and any regulations promulgated pursuant to those Acts.

C. Termination and Satisfaction

30. When Respondent believes that it has complied with all the requirements of this CAFO, including compliance with the Compliance Order and payment of the civil penalty, Respondent shall also certify this in writing and in accordance with the certification language set forth in Section IV (Compliance Order), Paragraph 22. Unless EPA, Region 6 objects in writing within sixty (60) days of EPA's receipt of Respondent's certification, then this CAFO is terminated on the basis of Respondent's certification.

D. Effective Date of Settlement

31. This CAFO shall become effective upon filing with the Regional Hearing Clerk.

THE UNDERSIGNED PARTIES CONSENT TO THE ENTRY OF THIS CONSENT AGREEMENT AND FINAL ORDER:

FOR THE RESPONDENT:

Date: 10/25/2016



Houston Plating and Coatings, LLC

FOR THE COMPLAINANT:

Date: 11-1-16



Stephen A. Gilrein, P.E.
Acting Director
Compliance Assurance and
Enforcement Division

FINAL ORDER

Pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the foregoing CAFO is hereby ratified. This Final Order 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. This Final Order shall resolve only those causes of action alleged herein. Nothing in this Final Order shall be construed to waive, extinguish, or otherwise affect Respondent's (or its officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. Respondent is ordered to comply with the terms of settlement and the civil penalty payment instructions as set forth in the CAFO. Pursuant to 40 C.F.R. § 22.31(b) this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Date: _____

11/2/16



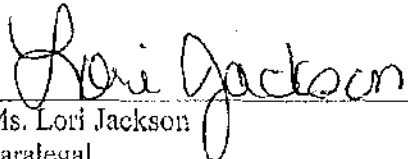
Renea Ryland
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of November, 2016, the original of the foregoing Consent Agreement and Final Order was hand delivered to the Regional Hearing Clerk, U.S. EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, and that a true and correct copy of the CAFO was sent to the following by the method below:

CERTIFIED MAIL – RETURN RECEIPT REQUESTED 7001 03600003 6674 9961

Ashley Prieto, Of Counsel
Porter Hedges LLP on Behalf of Houston Plating and Coatings, LLC
1000 Main Street, 36th Floor
Houston, Texas 77002



Ms. Lori Jackson
Paralegal