



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

AUG 19 2010

REPLY TO THE ATTENTION OF:

LR-8J

CERTIFIED MAIL 7009 1680 0000 7665 4661
RETURN RECEIPT REQUESTED

Mr. Jack T. Baker
Century Plating, Inc.
18006 South Waterloo Road
Cleveland, Ohio 44119

Re: Consent Agreement and Final Order
Century Plating, Inc.
18006 South Waterloo Road
Cleveland, Ohio 44119
EPA I.D. No.: OHD004178737
Docket No:

Dear Mr. Baker:

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 AUG 19 2010, with the Regional Hearing Clerk.

Please pay the civil penalty in the amount of \$39,916 in the manner prescribed in paragraph 137 of the CAFO, and reference all checks with the number BD 2751042R016 and docket number RCRA-05-2010-0021. 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,

Paul J. Little
Acting Chief, RCRA Branch
Land and Chemicals Division

Enclosures

RECEIVED

AUG 19 2010

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

**REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY**

In the Matter of:)	Docket No. RCRA-05-2010-0021
)	
Century Plating, Inc.)	Proceeding to Commence and Conclude
Cleveland, Ohio)	an Action to Assess a Civil Penalty
U.S. EPA ID No. OHD004178737)	Under Section 3008(a) of the
)	Resource Conservation and Recovery
Respondent.)	Act, 42 U.S.C. § 6928(a)
_____)		

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 Century Plating, Inc., a corporation doing business in the State of Ohio.
4. U.S. EPA provided notice of commencement of this action to the State of Ohio 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 3001 – 3007, and 3013, among others, of RCRA, 42 U.S.C. §§ 6921 - 6927, and 6934.

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 Ohio final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program effective June 30, 1989. 54 Fed. Reg. 27170 (June 28, 1989).

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. 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 \$37,500 per day for each violation of Subtitle C of RCRA that occurred after January 12, 2009.

Factual Allegations and Alleged Violations

16. Respondent was and is, at all times relevant to this CAFO, a "person" as defined by OAC 3745-50-10(88), 40 C.F.R. § 260.10, and Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

17. At all times relevant to this CAFO, Respondent was and is the "owner" or

“operator,” as those terms are defined under OAC 3745-50-10(84) and (83) and 40 C.F.R. § 260.10, of a facility located at 18006 South Waterloo Road, Cleveland, Ohio (the “facility”).

18. Respondent’s 18006 South Waterloo Road, Cleveland, Ohio, facility is a “facility,” as that term is defined under OAC 3745-50-10(39)(a) and 40 C.F.R. § 260.10.

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 treating, storing, or disposing of hazardous waste.

20. At all times relevant to this CAFO, Respondent’s facility manufactured nickel and chrome plate on steel, stainless steel or brass.

21. At all times relevant to this CAFO, Respondent’s processes at the facility created “solid waste” including sludge from wastewater treatment of electroplating waste, as that term is defined under OAC 3745-27-01 and 40 C.F.R. § 261.2.

22. At all times relevant to this CAFO, Respondent’s processes at the facility produced “hazardous waste” identified or listed in OAC 3745-51-01 to 3745-51-35 as F006, or caused hazardous waste F006 to become subject to regulation under OAC Rules 3745-50-01 to 3745-270 and 40 C.F.R. Parts 260-270.

23. Respondent generated and managed hazardous waste at the facility after November 19, 1980.

24. On June 26, 2008, EPA conducted a compliance evaluation inspection of the facility (“inspection”).

25. Respondent’s processes at the facility, at the time of and prior to the inspection, did not include recycling F006 waste through metals recovery, as these terms are used in OAC 3745-52-34 and 40 C.F.R. § 262.34.

26. Respondent is a "generator," as that term is defined in OAC 3745-50-10(45) and 40 C.F.R. § 260.10.
27. Respondent stored hazardous waste F006 at its facility prior to shipping the hazardous waste F006 off-site for treatment, storage or disposal.
28. Respondent is subject to the regulations promulgated pursuant to Subtitle C of RCRA, 42 U.S.C. §§ 6921-6939e, or the analogous Ohio regulations as part of the applicable state hazardous waste management program for the state of Ohio, or both.
29. Based on Respondent's records of hazardous waste disposal, Respondent produced an average of more than 1,000 kilograms (2,205 pounds) of hazardous waste per month between April 9, 2007 and October 11, 2007, prior to the inspection.
30. Based on Respondent's records of hazardous waste disposal, Respondent's facility produced an average of more than 1,000 kilograms (2,205 pounds) of hazardous waste in the calendar months between April 2007 and October 2007, and therefore, Respondent's facility produced more than 1,000 kilograms (2,205 pounds) of hazardous waste in at least one calendar month between April 2007 and October 2007, prior to the inspection, and became a large quantity generator of hazardous waste no later than October 2007.
31. Based on Respondent's records of hazardous waste disposal, Respondent's facility produced an average of more than 1,000 kilograms (2,205 pounds) of hazardous waste in the calendar months between October 2007 and April 2008, and therefore, Respondent's facility produced more than 1,000 kilograms (2,205 pounds) of hazardous waste in at least one calendar month between October 2007 and April 2008, prior to the inspection.
32. Based on Respondent's records of producing an average of more than 1,000 kilograms (2,205 pounds) of hazardous waste in a calendar month between October 2007 and

April 2008, prior to the inspection, Respondent's facility continued to be a large quantity generator of hazardous waste from at least October 2007 through April 2008.

33. On July 13, 2009, EPA issued a Pre-filing Notice and Opportunity to Confer to Respondent alleging certain violations of RCRA discovered during the inspection. On several occasions thereafter, the Respondent and the EPA have conferred regarding the alleged RCRA violations.

34. At all times relevant to this CAFO, the State of Ohio had not issued a permit to Respondent to treat, store, or disposed of hazardous waste at the facility.

35. At all times relevant to this CAFO, Respondent did not have interim status for the treatment, storage, or disposal of hazardous waste at the facility.

COUNT 1:

**Storage of Hazardous Waste without a Permit
and Violations of the Waste Accumulation Period, the Requirements for Waste
Accumulation Period Labeling , Container Labeling, a Training Program, an Emergency
Preparedness and Prevention Plan, and a Contingency Plan**

36. Complainant incorporates paragraphs 1 through 35 of this CAFO as though set forth in this paragraph.

37. Except as otherwise provided, a large quantity generator may, for 90 days or less, accumulate and/or treat hazardous waste that is generated on-site without an Ohio hazardous waste permit or interim status, provided that the generator complies with, among other things, the conditions of OAC 3745-52-34 and 40 C.F.R. § 262.34.

38. If the conditions of OAC 3745-52-34 and 40 C.F.R. § 262.34 are not met, then the generator must apply for an operating permit under OAC 3745-50-40 to 3745-50-66; 3745-54 to

3745-57; 3745-205 and 3745-256 and 40 C.F.R. Part 264, 40 C.F.R. §§ 270.1(c) and 270.10(a) and (d), and 270.13.

39. Under OAC 3745-52-34(a), OAC 3745-65-73 and OAC 3745-54-73 and 40 C.F.R. §§ 262.34(a) and 265.73, a generator must document in the facility operating record that the hazardous waste unit is emptied at least once every 90 days.

40. During the June 26, 2008 EPA inspection of Respondent's facility, Respondent produced records for the period between April 2007 and April 2008, that it emptied its hazardous waste unit by disposing of hazardous waste on the following dates: April 9, 2007, October 11, 2007, and April 10, 2008.

41. During EPA's June 26, 2008 inspection, there was no documentation that the hazardous waste unit was emptied at least once every 90 days.

42. Under OAC 3745-52-34(a)(2) and 40 C.F.R. § 262.34(a)(2), a generator must mark each hazardous waste container with the date waste accumulation begins.

43. During EPA's June 26, 2008 inspection, there was no marking on a hazardous waste container identifying the date waste accumulation began.

44. Under at OAC 3745-52-34(a)(3) and 40 C.F.R. § 262.34(a)(3), a generator must label or mark each hazardous waste container with the words "hazardous waste."

45. During EPA's June 26, 2008 inspection, there was no label or marking on the hazardous waste container containing the words "hazardous waste."

46. Under OAC 3745-52-34(a)(4) and 40 C.F.R. § 262.34(a)(4), a generator must comply with requirements for personnel training pursuant to OAC 3745-65-16 and OAC 3745-54-16 and 40 C.F.R. § 265.16.

47. OAC 3745-65-16(A)(2), (B) and (D)(4) and 40 C.F.R. § 265.16(a)(2), (b) and (d)(4) require owners and operators to develop and implement a hazardous waste management training program that includes teaching facility personnel hazardous waste management procedures (including contingency plan implementation) relevant to the positions in which they are employed, and requires employees to complete this training within six months after the date of their employment or assignment to the facility.

48. OAC 3745-65-16(D)(4) and E, and 40 C.F.R. §§ 265.16(d)(4) and (e) require the facility to record the training given to and completed by facility personnel, and require the facility to maintain training records.

49. During the June 26, 2008 EPA inspection, there was no documentation provided that the Respondent has developed and operated a hazardous waste training program for facility personnel, and there was no documentation provided indicating RCRA hazardous waste training and refresher training had been given to employees involved with hazardous waste management.

50. Under OAC 3745-52-34(a)(4) and 40 C.F.R. § 262.34(a)(4), a generator must comply with requirements for emergency preparedness pursuant to OAC 3745-65, Subpart C, and 40 C.F.R. Part 265, Subpart C.

51. OAC 3745-65-33 and 40 C.F.R. §§ 265.33 require, among other things, that the owners and operators test and maintain as necessary to assure proper operation in times of an emergency, all facility communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment.

52. OAC 3745-65-33 and OAC 3745-65-73, and 40 C.F.R. §§ 265.33 and 265.73 require the owner and operator to establish and maintain a record of inspections conducted pursuant to OAC 3745-65-33 and 40 C.F.R. § 265.33.

53. During the June 26, 2008 EPA inspection, there was no record of inspections conducted pursuant to OAC 3745-65-33 and 40 C.F.R. § 265.33.

54. OAC 3745-65-37(A)(1) and (4), and 40 C.F.R. § 265.37(a)(1) and (4) require, among other things, that owners and operators of a facility must attempt to make arrangements, as appropriate for the type of waste handled and the potential need for services, to familiarize police, fire departments and emergency response teams with the facility layout, properties of hazardous wastes handled, places where facility personnel would normally be working, entrances to roads, and possible evacuation routes, and to make arrangements to familiarize the local hospital with the properties of hazardous waste handled and the types of injuries and illnesses that could result from the facility.

55. During EPA's June 26, 2008, inspection, there was no record of the attempt to familiarize local authorities and to make arrangements with them, as provided by OAC 3745-65-37(A)(1) and (4), and 40 C.F.R. § 265.37(a)(1) and (4).

56. OAC 3745-65-52(C) and 40 C.F.R. § 265.52(c) require, among other things, that the contingency plan describe arrangements agreed to by local police departments, fire departments, hospitals, contractors, and Ohio EPA and local emergency response teams to coordinate emergency services pursuant to OAC 3745-65-37(A)(1) and (4), and 40 C.F.R. § 265.37(a)(1) and (4).

57. During the June 26, 2008 EPA inspection, there was no record in the contingency plan describing the describe arrangements agreed to by local police departments, fire departments, hospitals, contractors, and Ohio EPA and local emergency response teams to coordinate emergency services, as required by OAC 3745-65-52(C) and 40 C.F.R. § 265.52(c).

58. OAC 3745-65-52(D) 40 C.F.R. § 265.52(d) require, among other things, that the contingency plan list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator and this list must be kept up to date.

59. During the June 26, 2008 EPA inspection, there was no record in the contingency plan listing the names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator, as required by OAC 3745-65-52(D) and 40 C.F.R. § 265.52(d).

60. OAC 3745-65-52(F) and 40 C.F.R. § 265.52(f) require, among other things, that the contingency plan include an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary, describing signal(s) to be used to begin an evacuation, and identifying evacuation routes and alternate evacuation routes.

61. During the June 26, 2008 EPA inspection, there was no record in the contingency plan of an evacuation plan for facility personnel, as required by OAC 3745-65-52(F) and 40 C.F.R. § 265.52(f).

62. OAC 3745-65-53 and 40 C.F.R. § 265.53 require, among other things, that the contingency plan and all revisions must be maintained at the facility, and that a copy must be submitted to all local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services.

63. During the June 26, 2008 EPA inspection, there was no record that a copy of the contingency plan had been submitted to all local police departments, fire departments, hospitals and State and local emergency response teams, as required by OAC 3745-65-53 and 40 C.F.R. § 265.53.

64. As set forth above, Respondent did not meet the conditions of OAC 3745-52-34 and 40 C.F.R. § 262.34 necessary to exempt it from the requirement to obtain interim status or apply for and obtain a permit for the storage of hazardous waste.

65. Respondent stored hazardous waste without a permit or interim status in violation of Section 3005 of RCRA, 42 U.S.C. § 6925(a), and the regulations found at OAC 3745-50-40 to 3745-50-66, and 3745-205 and 3745-256, and 40 C.F.R. Parts 262 and 265, and 40 C.F.R. §§ 270.1(c) and 270.10(a) and (d), and 270.13.

COUNT 2

Failure to Prepare and Submit Annual Hazardous Waste Report

66. Complainant incorporates paragraphs 1 through 35 of this CAFO as though set forth in this paragraph.

67. Under OAC 3745-52-41(A), a generator who ships any hazardous waste off-site must prepare and submit to Ohio EPA an Annual Hazardous Waste Report by March first of each year for the preceding calendar year. (See also, 40 C.F.R. § 262.41(a), requiring a corresponding biennial report).

68. Under OAC 3745-52-40(B), and 40 C.F.R. § 262.40(b), a generator must keep a copy at its facility of each Annual Hazardous Waste Report for a period of at least three years from the due date of the report.

69. During the June 26, 2008 EPA inspection, the Respondent's facility did not have a copy of an Annual Hazardous Waste Report regarding hazardous waste transport during calendar year 2007, which was due to be submitted to Ohio EPA by March 1, 2008.

70. Respondent failed to prepare and submit to Ohio EPA the Annual Hazardous Waste Report for 2007 by March 1, 2008.

71. Respondent failed to keep at its facility a copy of the Ohio EPA Annual Hazardous Waste Report for 2007 which was due to the Ohio EPA by March 1, 2008. By failing to prepare and submit to Ohio EPA the Annual Report by March 1, 2008, and by failing to maintain at its facility a copy of the Annual Hazardous Waste Report submitted to Ohio EPA, as described in paragraphs 67 through 70, Respondent violated OAC 2745-52-40(B) and 2745-52-41(A) and 40 C.F.R. §§ 262.40(b) and 262.41(a).

COUNT 3

Failure to Determine if Solid Waste was "Hazardous"

72. Complainant incorporates paragraphs 1 through 35 of this Complaint as though set forth in this paragraph.

73. Facilities that fail to meet the conditions for a generator permit exemption for waste storage under OAC 3745-52-34, and 40 C.F.R. § 262.34 must meet the standards for treatment, storage, and disposal facilities in OAC 2745-52-11 and 40 C.F.R. § 262.11.

74. OAC 2745-52-11 and 40 C.F.R. § 262.11 require a person who generates a solid waste to determine if that waste is a hazardous waste.

75. Under OAC 2745-52-40 and 40 C.F.R. § 262.40, a generator must keep records of any test results, waste analysis or other determinations made in accordance with OAC 2745-52-11 and 40 C.F.R. § 262.11 for at least three years.

76. Respondent generated a spent waste polishing dust between 2005 and 2008.

77. The spent waste polishing dust that Respondent generated between 2005 and 2008 is a solid waste pursuant to OAC 2745-51-2 and 40 C.F.R. § 261.2.

78. During the June 26, 2008 EPA inspection of the facility, there were no records of test results, waste analysis or other determinations regarding the spent waste polishing dust at the Respondent's facility.

79. Respondent failed to determine if the spent waste polishing dust, which was solid waste, was hazardous waste.

80. Respondent failed to maintain test results, waste analysis or other determinations regarding the spent waste polishing dust at its facility.

81. By failing to determine and maintain test results, waste analysis or other determinations regarding solid waste as described in paragraphs 73–80 above, Respondent violated OAC 2745-52-11 and 2745-52-40 and 40 C.F.R. §§ 262.11 and 262.40.

COUNT 4

Failure to Document and Record all Elements of a Complete Training Program

82. Complainant incorporates paragraphs 1 through 35 of this Complaint as though set forth in this paragraph.

83. Facilities that fail to meet the conditions for a generator permit exemption for waste storage under OAC 3745-52-34, and 40 C.F.R. § 262.34 must meet the standards for treatment, storage, and disposal facilities in OAC 3745-54-16(D)(1)-(3) and 40 C.F.R. § 264.16(d)(1)-(3), which require that all owners or operators of hazardous waste facilities comply with all requirements entitled, "Personal Training."

84. OAC 3745-54-16(D)(1)-(3) and 40 C.F.R. § 264.16(d)(1)-(3) require that an owner and operator of a facility maintain documentation of the job title for each position at the facility related to hazardous waste management, the name of each employee filling each job, a written job description including the requisite skill, education or other qualifications, the written

duties of facility personnel assigned to each position, and a written description of the type and amount of both introductory and continuing training that will be given to each person filling such a position.

85. During the June 26, 2008 EPA inspection of the facility, the facility did not document and record job titles for each position at the facility related to hazardous waste management, the names of each employee filling each job, written descriptions for each position that include the requisite skill, education, or other qualifications, and duties of facility personnel assigned to each position, and there was no written description of the type and amount of both introductory and continuing training that will be given to each person filling a position.

86. Respondent failed to meet the conditions of OAC 3745-52-34(A)(4) and 40 C.F.R. § 262.34(a)(4), and failed to comply with OAC 3745-54-16(D)(1)-(3) and 40 C.F.R. § 264.16(d)(1)-(3), by failing to document and record all the elements of a complete training program including job titles for each position at the facility related to hazardous waste management, and the name of the employee filling each job. Also, there was no written job description for each position that included the requisite skill, education, or other qualifications, and duties of facility personnel assigned to each position, and there was no written description of the type and amount of both introductory and continuing training that will be given to each person filling a position listed above.

87. Respondent failed to comply with the training conditions described in paragraphs 83-86, above, for a hazardous waste storage permit exemption under OAC 3745-52-34(A)(4) and 40 C.F.R. §262.34(a)(4), and violated the hazardous waste storage facility training documentation and records requirements under OAC 3745-54-16(D)(1)-(3) and 40 C.F.R. § 264.16(d)(1)-(3).

COUNT 5

**Failure to Document That Training or Job Experience Had Been
Completed by Facility Personnel**

88. Complainant incorporates paragraphs 1 through 35 of this Complaint as though set forth in this paragraph.

89. Facilities that fail to meet the conditions for a generator permit exemption for waste storage under OAC 3745-52-34, and 40 C.F.R. § 262.34 must meet the standards for treatment, storage, and disposal facilities in OAC 3745-54-16(A), (B) and (D)(4) and 40 C.F.R. § 264.16(a), (b) and (d)(4), which require that all owners or operators of hazardous waste facilities comply with all requirements entitled, "Personnel Training."

90. OAC 3745-54-16(A) and 40 C.F.R. § 264.16(a), require that facility personnel must successfully complete a program of classroom instruction or on-the-job training, directed by a person trained in hazardous waste management procedures, and must include instruction which teaches facility personnel hazardous waste management procedures relevant to the positions in which they are employed.

91. OAC 3745-54-16(B) and 40 C.F.R. § 264.16(b), require that facility personnel must successfully complete the program required by OAC 3745-54-16(A) and 40 C.F.R. § 264.16(a) within six months after the date of their employment or assignment to a facility, or to a new position at a facility, whichever is later; and requires that new employees may not work in unsupervised positions until they have completed the training requirements of OAC 3745-54-16(A) and 40 C.F.R. § 264.16(a).

92. OAC 3745-54-16(C) and 40 C.F.R. § 264.16(c), require that facility personnel must take part in an annual review of the initial training required by OAC 3745-54-16(A) and 40 C.F.R. § 264.16(a).

93. OAC 3745-54-16(D)(4) and 40 C.F.R. § 264.16(d)(4) require the owner and operator of the facility to maintain documents and records at the facility that the training or job experience required by OAC 3745-54-16(A), (B) and (C) and 40 C.F.R. § 264.16(a), (b) and (c) has been given to, and completed by, facility personnel.

94. OAC 3745-54-16(E) and 40 C.F.R. § 264.16(e) require the facility to keep training records for current personnel until closure of the facility and records of former personnel for at least three years from the date the employee last worked at the facility.

95. During the June 26, 2008, EPA inspection of the facility, the facility did not have documents or records that the training or job experience required by OAC 3745-54-16(A) and (B) and 40 C.F.R. § 264.16(a) and (b) had been given to, and completed by, all facility personnel required to be trained since 2007.

96. Respondent failed to comply with OAC 3745-52-34(A)(4) and 40 C.F.R. § 262.34(a)(4), and OAC 3745-54-16(A), (B) and (D)(4) and 40 C.F.R. § 264.16(a), (b) and (d)(4), by failing to document and record the development and implementation of a proper hazardous waste management training program, as described in paragraphs 89-95, above.

97. Respondent failed to comply with the training conditions described in paragraphs 89-96, above, for a hazardous waste storage permit exemption under OAC 3745-52-34(A)(4) and 40 C.F.R. §262.34(a)(4), and violated the hazardous waste storage facility training documentation and records requirements OAC 3745-54-16(A), (B) and (D)(4), and 40 C.F.R. § 264.16(a), (b) and (d)(4).

COUNT 6

Failure to Test and Maintain Emergency Equipment and Systems

98. Complainant incorporates paragraphs 1 through 35 of this Complaint as though set forth in this paragraph.

99. OAC 3745-54, Subpart C and 40 C.F.R. Part 264, Subpart C, "Preparedness and Prevention" require that all owners or operators of hazardous waste facilities comply with all requirements of OAC 3745-54-33 and 40 C.F.R. § 264.33 entitled, "Testing and Maintenance of Equipment."

100. OAC 3745-54-33 and 40 C.F.R. § 264.33 require all facility communications and alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, be tested and maintained as necessary to assure its proper operation in time of emergency.

101. OAC 3745-54-33 and OAC 3745-54-73, and 40 C.F.R. §§ 264.33 and 264.73 require the owner and operator to establish and maintain a record of inspections conducted pursuant to OAC 3745-54-33 and 40 C.F.R. § 264.33.

102. During the June 26, 2008 EPA inspection, there was no record of inspections conducted pursuant to OAC 3745-54-33 and 40 C.F.R. § 264.33.

103. Respondent failed to comply with the testing and maintenance of emergency equipment and systems requirements described in paragraphs 99-102, above, for a hazardous waste storage permit exemption under OAC 3745-52-34(A)(4) and 40 C.F.R. §262.34(a)(4), and violated the hazardous waste storage facility emergency equipment and systems documentation and records requirements under OAC3745-54-33 and OAC 3745-54-73, and 40 C.F.R. § 264.33 and 264.73.

COUNT 7

**Failure to Make and Document Arrangements and/or Agreements
with Emergency Services**

104. Complainant incorporates paragraphs 1 through 35 of this Complaint as though set forth in this paragraph.

105. OAC 3745-54 Subpart C, and 40 C.F.R. Part 264, Subpart C, include, among other things, OAC 3745-54-37, and 40 C.F.R. § 264.37: Arrangements with local authorities.

106. OAC 3745-54-37(A)(1) and (4), and 40 C.F.R. § 264.37(a)(1) and (4) require, among other things, that owners and operators of a facility must attempt to make arrangements, as appropriate for the type of waste handled and the potential need for services, to familiarize police, fire departments and emergency response teams with the facility layout, properties of hazardous wastes handled, places where facility personnel would normally be working, entrances to roads, and possible evacuation routes, and to make arrangements to familiarize the local hospital with the properties of hazardous waste handled and the types of injuries and illnesses that could result from the facility.

107. During EPA's June 26, 2008 inspection, there was no record of the attempt to familiarize local authorities and to make arrangements with them, as provided by OAC 3745-54-37(A)(1) and (4), and 40 C.F.R. § 264.37(a)(1) and (4).

108. OAC 3745-54, Subpart D and 40 C.F.R. Part 264, Subpart D, include, among other things, OAC 3745-54-52 and 40 C.F.R. § 264.52: Content of contingency plan.

109. OAC 3745-54-52(C) and 40 C.F.R. § 264.52(c) require, among other things, that the contingency plan describe arrangements agreed to by local police departments, fire departments, hospitals, contractors, and Ohio EPA and local emergency response teams to

coordinate emergency services pursuant to OAC 3745-54-37(A)(1) and (4), and 40 C.F.R. § 264.37(a)(1) and (4).

110. During the June 26, 2008 EPA inspection, there was no record in the contingency plan describing arrangements agreed to by local police departments, fire departments, hospitals, contractors, and Ohio EPA and local emergency response teams to coordinate emergency services, as required by OAC 3745-54-52(C) and 40 C.F.R. § 264.52(c).

111. As set forth above, Respondent did not meet the conditions of OAC 3745-52-34 and 40 C.F.R. § 262.34 necessary to exempt it from the requirement to obtain interim status or apply for and obtain a permit for the storage of hazardous waste.

112. Respondent failed to comply with requirements to make and document arrangements and agreements as described in paragraphs 105-111, above, for a hazardous waste storage permit exemption under OAC 3745-52-34(A)(4) and 40 C.F.R. § 262.34(a)(4), and violated the hazardous waste storage facility requirements to make and document arrangements with local authorities under OAC 3745-54-37, and 40 C.F.R. § 264.37.

COUNT 8

Contingency Plan Violations and Failure to Submit the Contingency Plan to the Local Police and Fire Departments, Hospitals, and State and Local Emergency Response Teams

113. Complainant incorporates paragraphs 1 through 35 of this Complaint as though set forth in this paragraph.

114. OAC 3745-54 Subpart C and 40 C.F.R. Part 264, Subpart C, include, among other things, OAC 3745-54-52, and 40 C.F.R. § 264.52: content of contingency plans.

115. OAC 3745-54-52, and 40 C.F.R. § 264.52 require, among other things, that owners or operators of a facility have a contingency plan for the facility designed to minimize

hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil or surface water.

116. OAC 3745-54-52(D), and 40 C.F.R. § 264.52(d) require, among other things, that owners and operators of a facility must list names, addresses, and phone numbers, office and home, of all persons qualified to act as emergency coordinator, and this list must be kept up to date.

117. During the June 26, 2008 EPA inspection, there was no record in the contingency plan listing the names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator, as required by OAC 3745-54-52(D) and 40 C.F.R. § 264.52(d).

118. OAC 3745-54-52(F) and 40 C.F.R. § 264.52(f) require, among other things, that the contingency plan include an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary, describing signal(s) to be used to begin an evacuation, and identifying evacuation routes and alternate evacuation routes.

119. During the June 26, 2008 EPA inspection, there was no record in the contingency plan of an evacuation plan for facility personnel, as required by OAC 3745-54-52(F) and 40 C.F.R. § 264.52(f).

120. OAC 3745-54-53 and 40 C.F.R. § 264.53 require, among other things, that owners and operators of a facility must submit a copy of the contingency plan to all local police departments, fire departments, hospitals, and Ohio EPA and local emergency response teams that may be requested to provide emergency services.

121. During the June 26, 2008 EPA inspection, there was no record that a copy of the contingency plan had been submitted to all local police departments, fire departments, hospitals

and State and local emergency response teams, as required by OAC 3745-54-53 and 40 C.F.R. § 264.53.

122. As set forth above, Respondent did not meet the conditions of OAC 3745-52-34 and 40 C.F.R. § 262.34 necessary to exempt it from the requirement to obtain interim status or apply for and obtain a permit for the storage of hazardous waste.

123. Respondent failed to comply with requirements for a contingency plan and to submit copies of the plan as described in paragraphs 114-122 above, for a hazardous waste storage permit exemption under OAC 3745-52-34(A)(4) and 40 C.F.R. §262.34(a)(4), and violated the hazardous waste storage facility contingency plan requirements under OAC 3745-54-52(D), 3745-54-52(F) and 3745-54-53, and 40 C.F.R. §§ 264.52(d), 264.52(f), and 264.53.

COUNT 9

Failure to Close Hazardous Waste Containers Except When Adding or Removing Waste

124. Complainant incorporates paragraphs 1 through 35 of this Complaint as though set forth in this paragraph.

125. OAC 3745-54 Subpart C, and 40 C.F.R. Part 264, Subpart C, include, among other things, OAC 3745-55-73, and 40 C.F.R. § 264.173: management of containers.

126. OAC 3745-55-73(A), and 40 C.F.R. § 264.173 require, among other things, that owners or operators of a facility must always keep a container holding hazardous waste closed during storage, except when it is necessary to add or remove waste.

127. During the June 26, 2008 EPA inspection, the inspector observed containers of hazardous waste that were not closed, and there was no waste being added to or removed from the containers.

128. As set forth above, Respondent did not meet the conditions of OAC 3745-52-34 and 40 C.F.R. § 262.34 necessary to exempt it from the requirement to obtain interim status or apply for and obtain a permit for the storage of hazardous waste.

129. Respondent failed to comply with requirements for the management of containers of hazardous waste as described in paragraphs 125-128 above, for a hazardous waste storage permit exemption under OAC 3745-52-34(A)(4) and 40 C.F.R. §262.34(a)(4), and violated the hazardous waste storage facility container management requirements under OAC 3745-55-73(A), and 40 C.F.R. § 264.173.

COUNT 10

Failure to Inspect Areas Where Containers are Stored at Least Weekly

130. Complainant incorporates paragraphs 1 through 35 of this Complaint as though set forth in this paragraph.

131. OAC 3745-54, Subpart C, and 40 C.F.R. Part 264, Subpart C, include, among other things, OAC 3745-55-74, and 40 C.F.R. § 264.174: Inspections.

132. OAC 3745-55-74 and 40 C.F.R. § 264.174 require, among other things, that owners or operators of a facility must inspect areas where containers are stored, at least weekly, looking for leaks and for deterioration caused by corrosion or other factors.

133. OAC 3745-54-15(D), and 40 C.F.R. § 264.15(d) require the owner or operator to record inspections in an inspection log or summary.

134. During the June 26, 2008 EPA inspection, there was no record of inspections conducted at least weekly of areas where containers are stored.

135. Respondent failed to comply with the inspection requirement for areas where containers are stored, and to record the inspections in an inspection log or summary, as described

in paragraphs 131-134 above, for a hazardous waste permit exemption under OAC 3745-52-34(A)(1) and 40 C.F.R. § 262.34(a)(1), and violated the hazardous waste storage facility inspection and record-keeping requirements under OAC 3745-55-74 and 40 C.F.R. § 264.174, and OAC 3745-54-15(D) and 40 C.F.R. § 264.15(d).

Civil Penalty

136. 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 \$39,916. 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.

137. Within 30 days after the effective date of this CAFO, Respondent must pay a \$39,916 civil penalty for the RCRA violations. Respondent must pay the penalty by sending a cashier's or certified check, payable to the "Treasurer, United States of America," to:

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

The front of the check must state case name, the docket number of this CAFO and the billing document number.

138. A transmittal letter, stating the case name, Respondent's complete address, the case docket number and the billing document number must accompany the payment. Respondent must send a copy of the check and transmittal letter 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

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

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

140. 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

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

142. This CAFO does not affect the right of the U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

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

144. Respondent certifies that it is complying with the 42 U.S.C. § 6922 and

OAC 3745-52-34(A); OAC 3745-55-95(A), (B)(1)-(3), and (D); OAC 3745-54-16(A)(1), (2) and (3), (C), and (D)(2) [40 C.F.R. § 264.195(a), (b), (c)(1) and (2), (d) and (h); 40 C.F.R. § 264.16(a)(1), (2) and (3), (c), and (d)(2)].

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

146. 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.

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

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

In the Matter of:
Century Plating, Inc.
Docket No. RCRA-05-2010-0021

Century Plating, Respondent

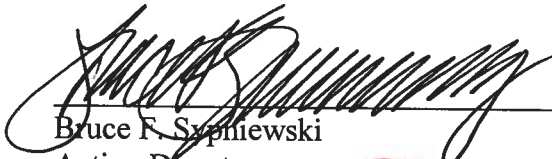
7-20-2010
Date



J. T. Baker, President
Century Plating, Inc.

United States Environmental Protection Agency, Complainant

8/6/10
Date



Bruce F. Sypniewski
Acting Director
Land and Chemicals Division

RECEIVED
AUG 19 2010

**REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY**

**In the Matter of:
Century Plating, Inc.
Docket No. RCRA-05-2010-0021**

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.

August 16, 2010
Date



Susan Hedman
Regional Administrator
United States Environmental Protection Agency
Region 5

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AUG 10 2010
REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

CASE NAME: CENTURY PLATING, INC.
DOCKET NO: RCRA-05-2010-0021

CERTIFICATE OF SERVICE

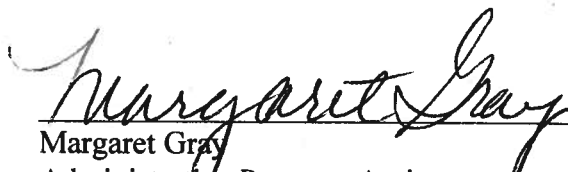
I hereby certify that today I filed the original of this **Consent Agreement and Final Order** and this **Certificate of Service** in the office of the Regional Hearing Clerk (E-13J), United States Environmental Protection Agency, Region V, 77 W. Jackson Boulevard, Chicago, Illinois 60604-3590.

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. J. T. Baker
President
Century Plating, Inc.
18006 South Waterloo Road
Cleveland, OH 44119

Certified Mail Receipt #

Dated August 19 2010


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