

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for John Hultgren 4/25/19
Name of Case Attorney Date

in the ORC (RAA) at 918-1113
Office & Mail Code Phone number

Case Docket Number RCRA-01-2018-0036

Site-specific Superfund (SF) Acct. Number _____

This is an original debt This is a modification

Name and address of Person and/or Company/Municipality making the payment:

Southcoast Plating, Inc
41 Coffin Street
New Bedford, MA 02746

Total Dollar Amount of Receivable \$ 30,000 Due Date: 11/15/2020

SEP due? Yes No Date Due _____

Installment Method (if applicable)

- INSTALLMENTS OF:
- 1st \$ 7,500 on 5/25/19
 - 2nd \$ 7,950 on 11/21/19
 - 3rd \$ 7,950 on 5/19/2020
 - 4th \$ 7,950 on 11/15/2020
 - 5th \$ _____ on _____

For RHC Tracking Purposes:

Copy of Check Received by RHC _____ Notice Sent to Finance _____

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

IFMS Accounts Receivable Control Number _____

If you have any questions call: _____ Phone Number
in the Financial Management Office



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region I
5 Post Office Square - Suite 100
Boston, MA 02109-3912

BY HAND

APR 2 5 2019

Wanda I. Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency – Region I
5 Post Office Square - Suite 100 (ORC04-6)
Boston, MA 02109-3912

Re: *In the Matter of Southcoast Plating, Inc.*
Docket No.: RCRA-01-2018-0036

Dear Ms. Santiago:

Enclosed for filing in the above-referenced matter, please find the original and one copy of a Consent Agreement and Final Order, which resolves the referenced action for alleged violations of Section 3002 of Resource Conservation and Recovery Act, 42 U.S.C. § 6922, 40 C.F.R. Parts 262, Chapter 21 C of the Massachusetts General Laws and the regulations promulgated thereunder found at Title 310, Chapter 30 of the Code of Massachusetts Regulations set forth at 310 C.M.R. 30.001 *et seq.*

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to be "J. Hultgren".

John Hultgren
Senior Enforcement Counsel

cc by email: Jamy Madeja, Esq., counsel for Southcoast Plating, Inc.
Linda Brolin, EPA Office of Environmental Stewardship

Enclosures

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I**

RECEIVED

APR 25 2019

EPA ORC WS
Office of Regional Hearing Clerk

IN THE MATTER OF:)	
)	
Southcoast Plating, Inc.)	EPA Docket No. RCRA-01-2018-0036
41 Coffin Street)	
New Bedford, MA 02746)	
Respondent)	CONSENT AGREEMENT
)	AND
)	FINAL ORDER
)	
Proceeding under Section 3008(a))	
Resource Conservation and Recovery)	
Act, 42 U.S.C. § 6928(a))	
)	

I. INTRODUCTION

Complainant, the United States Environmental Protection Agency ("EPA"), having filed the Complaint herein on September 5, 2018, against Respondent, Southcoast Plating, Inc. doing business as Star Plating Company ("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 ("CAFO") 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 Ordered and Adjudged as follows:

II. PRELIMINARY STATEMENT

1. EPA initiated this proceeding for the assessment of a civil penalty, pursuant to Section 3008(a) of the Resource Conservation and Recovery Act ("RCRA").

2. The Complaint alleges that Respondent violated Section 3002 of RCRA, 42 U.S.C. § 6922, 40 C.F.R. Parts 262, Chapter 21 C of the Massachusetts General Laws and the regulations promulgated thereunder found at Title 310, Chapter 30 of the Code of Massachusetts Regulations set forth at 310 C.M.R. 30.001 *et seq.*

3. This CAFO shall apply to and be binding upon Respondent, its officers, employees, successors and assigns.

4. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in the Complaint and that the Complaint states a claim upon which relief can be granted against Respondent. Respondent waives any defenses it might have as to jurisdiction and venue. Without admitting or denying the factual allegations or conclusions of law contained in the Complaint or in this CAFO, and without admitting or denying liability as to any claim alleged in the Complaint or in this CAFO, Respondent consents for purposes of settlement to the terms of this CAFO.

5. 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, and waives its right to appeal the Final Order accompanying this Consent Agreement.

III. TERMS OF SETTLEMENT

6. Respondent certifies that its facility, located at 1 Coffin Avenue in New Bedford, Massachusetts (the "Facility"), is now in compliance with Section 3002 of RCRA and the federal and state hazardous waste regulations promulgated thereunder, including but not limited to the following:

a. In accordance with 310 C.M.R. 30.302, Respondent has performed and is performing hazardous waste determinations for all wastes generated at the Facility;

b. In accordance with 310 C.M.R. 30.340(4) and (5), Respondent is accumulating all hazardous waste in a container(s) or tank(s) or both;

c. In accordance with 310 C.M.R. 30.341(5), Respondent has clearly marked all areas of the Facility where wastes are accumulated for purposes of complying with 310 C.M.R. 30.000 generally so that they are clearly distinguishable at all times from all specific points of generation where wastes are initially accumulated solely for purposes of 310 C.M.R. 30.340(6), and from all areas at the site of generation where wastes are not accumulated;

d. In accordance with 310 C.M.R. 30.516(2), as referenced by 310 C.M.R. 30.341(1)(a), Respondent has prepared and is maintaining a written hazardous waste training plan, including, but not limited to records that document that the training or job experience required has been given to and satisfactorily completed by facility personnel;

e. In accordance with 310 C.M.R. 30.516(1)(a),(c),(d) and (e), as referenced by 310 C.M.R. 30.341(1)(a), Respondent has provided initial and annual hazardous waste training to employees with hazardous waste management responsibilities and documented such trainings;

f. In accordance with 310 C.M.R. 30.521(8), as referenced by 310 C.M.R. 30.341(1)(b)(5), Respondent has an up-to-date contingency plan with the names, addresses, and the office and home telephone numbers of all individuals qualified to act as emergency coordinator, and because more than one individual is listed, one person is named as the primary emergency coordinator and a second person is named as the alternate emergency coordinator; In accordance with 310 C.M.R. 30.522, Respondent submitted a copy of the up-to-date contingency plan to local police departments, local fire departments, hospitals, local boards of health, the chief executive officer of the community, state and local emergency response teams that may be

called upon to provide emergency services, and the Massachusetts Department of Environmental Protection;

g. In accordance with 310 C.M.R. 30.341(4), Respondent has posted, and keeps posted at all times, required signs with the words "HAZARDOUS WASTE" in capital letters at least one inch high in all areas where wastes are accumulated;

h. In accordance with 310 C.M.R. 30.524(2), as referenced by 310 C.M.R. 30.341(1)(e)(4), Respondent has placed required emergency equipment and information at all hazardous waste management units;

i. In accordance with 310 C.M.R. 30.341(2)(a),(b) and (c), Respondent has marked each container of hazardous waste with (a) the words "Hazardous Waste"; (b) the hazardous waste identified in words; and (c) the type of hazard(s) associated with the waste indicated in words (e.g. ignitable, toxic dangerous when wet);

j. In accordance with 310 C.M.R. 30.341(2)(d), Respondent has marked each container of hazardous waste with the date upon which each period of accumulation began;

k. In accordance with 310 C.M.R. 30.686, as referenced by 310 C.M.R. 30.342(d)(1), and in accordance with 310 C.M.R. 30.342(2) and (3), Respondent is conducting weekly inspections of all areas where hazardous wastes are stored, and is recording those inspections in a log or summary and keeping the records of each inspection for at least three years from the date of inspection or until final closure pursuant to 310 C.M.R. 30.342(1)(g), whichever period is longer;

l. In accordance with 310 C.M.R. 30.524(5), as referenced by 310 C.M.R. 30.341(1)(e)(6), and in accordance with 310 C.M.R. 30.685(4), as referenced by 310 C.M.R. 30.342(c), Respondent is maintaining sufficient aisle space to allow the unobstructed movement

of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area within hazardous waste management units in an emergency, and to allow for the containers of hazardous waste to be adequately inspected to ensure compliance with container management standards;

m. In accordance with 310 C.M.R. 30.685(1), as referenced by 310 C.M.R. 30.342(1)(c) and 310 C.M.R. 340(5)(a)(1), Respondent is keeping containers of hazardous waste closed at all times during storage, except when waste is being added or removed;

n. In accordance with 310 C.M.R. 30.683, as referenced by 30 C.M.R. 30.342(1)(a), Respondent has transferred hazardous waste from any container that is not in good condition (e.g., severe rusting, apparent structural defects) or is leaking to a container that is in good condition, and is only storing hazardous waste in containers that are in good condition.

7. Respondent certifies that the financial information and documents submitted to EPA to support its claim of financial inability to pay the proposed penalty without undue financial hardship are true, accurate, and complete.

8. Pursuant to Section 3008 of RCRA, based upon the nature of the alleged violations and other relevant factors, including Respondent's limited ability to pay, EPA has determined that an appropriate civil penalty to settle this action is in the amount of thirty thousand dollars (\$30,000).

9. For purposes of settling this matter, Respondent consents to the issuance of this CAFO and consents for the purposes of settlement to the payment of the civil penalty cited in the foregoing paragraph.

10. Respondent shall pay the \$30,000 penalty, plus interest at six percent per annum on the unpaid balance remaining after the first payment is made in the amount of one thousand three

hundred and fifty dollars (\$1,350), as follows:

a. The payment of seven thousand five hundred dollars (\$7,500) shall be made within thirty calendar (30) days of the effective date of this CAFO. With respect to the first and subsequent payments, if the due date for the payment falls on a weekend or federal or state holiday, then the due date is the next business day.

b. Respondent shall pay the second installment payment of seven thousand nine hundred and fifty dollars (\$7,950) within two hundred and ten (210) days of the effective date of this CAFO. This payment consists of seven thousand five hundred dollars (\$7,500) in principal plus four hundred and fifty dollars (\$450) in interest.

c. Respondent shall pay the third installment payment of seven thousand nine hundred and fifty dollars (\$7,950) within three hundred and ninety days (390) days of the effective date of this CAFO. This payment consists of seven thousand five hundred dollars (\$7,500) in principal plus four hundred and fifty dollars (\$450) in interest.

d. Respondent shall pay the fourth installment payment of seven thousand nine hundred and fifty dollars (\$7,950) within five hundred and seventy (570) days of the effective date of this CAFO. This payment consists of seven thousand five hundred dollars (\$7,500) in principal plus four hundred and fifty dollars (\$450) in interest.

e. Payment shall be made by remitting a check or making an electronic payment, as described below. The check or other payment shall reference "*In the Matter of Southcoast Plating, Inc.*, Consent Agreement and Final Order, EPA Region 1," Respondent's name and address, and the EPA Docket Number of this action (RCRA-01-2018-0036), and be payable to "Treasurer, United States of America." The payments shall be remitted as follows:

If remitted by regular U.S. mail:

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

If remitted by any overnight commercial carrier:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, Missouri 63101

If remitted by wire transfer: Any wire transfer must be sent directly to the Federal Reserve Bank in New York City using the following information:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read "D 68010727
Environmental Protection Agency"

f. A copy of the check (or notification of other type of payment) shall also be sent to:

Wanda Santiago, Regional Hearing Clerk
U.S. Environmental Protection Agency, Region I
5 Post Office Square, Suite 100
Mail Code: ORC04-6
Boston, MA 02109-3912

and

John Hultgren
Senior Enforcement Counsel
U.S. Environmental Protection Agency, Region I
5 Post Office Square, Suite 100
Mail Code: OES04-2
Boston, MA 02109-3912

g. If Respondent fails to make any of the above-described required payments by their respective due dates: (1) Respondent shall pay interest on the late amount pursuant to 31 U.S.C. § 3717, plus any late charges to cover the cost of processing and handling the delinquent claim;

(The interest on the late amount shall be calculated at the rate of the U.S. Treasury tax and loan rate, in accordance with 31 C.F.R. § 901.9(b)(2)); and (2) EPA may declare the entire unpaid balance due and any accrued interest then unpaid immediately due and payable.

11. Nothing in this CAFO shall be construed as prohibiting, altering or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondent's violation of this agreement or of the statutes and regulations upon which this agreement is based, or for Respondent's violation of any applicable provision of law.

12. The civil penalty due, and any interest, non-payment penalties or charges that arise pursuant to this CAFO shall represent penalties assessed by EPA and shall not be deductible for purposes of federal taxes. Accordingly, Respondent agrees to treat all payments made pursuant to this CAFO as penalties within the meaning of Section 1.162-21 of the Internal Revenue Code, 26 U.S.C. § 1.162-21, and further agrees not to use these payments in any way as, or in furtherance of, a tax deduction under federal, state or local law.

13. This CAFO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit.

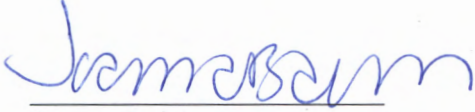
14. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to RCRA for the violations alleged in the Complaint. Nothing in this CAFO is intended to nor shall be construed to operate in any way to resolve any criminal liability of the Respondent. Nothing in the CAFO shall be construed to limit the authority of EPA to undertake any action against Respondent in response to conditions which may present an imminent and substantial endangerment to the public health, welfare, or the environment.

15. If Respondent fails to pay the civil penalty (or any portion thereof) it will be subject to an action to compel payment, plus interest, enforcement expenses, and a nonpayment penalty. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty (or any portion thereof) on the date it is due under this CAFO if such penalty (or portion thereof) is not paid in full by such due date. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b)(2). In addition, a penalty charge of six percent per year and an amount to cover the costs of collection will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. Should assessment of the penalty charge on the debt be required, it will be assessed as of the first day payment is due under 31 C.F.R. § 901.9(d).

16. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this CAFO and to execute and legally bind that party to it.

17. Each party shall bear its own costs and attorneys' fees in connection with the action resolved by this CAFO. Respondent specifically waives any right to recover such costs from EPA pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504, or other applicable law.

For Complainant:




Joanna Jerison
Legal Enforcement Manager
Office of Environmental Stewardship
U.S. Environmental Protection Agency
Region 1

Date: April 11, 2019

In the Matter of Southcoast Plating, Inc.; RCRA-01-2018-0036

For Respondent:



Carlton Neves, Owner
Southcoast Plating, Inc.

Date: 4-9-19

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I**

IN THE MATTER OF:

Southcoast Plating, Inc.
41 Coffin Street
New Bedford, MA
02746

Respondent.

EPA Docket No.
RCRA-01-2018-0036

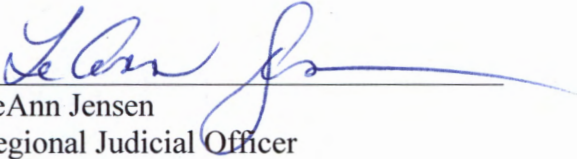
FINAL ORDER

Pursuant to 40 CFR § 22.18(b) of the United States Environmental Protection Agency's Consolidated Rules of Practice, the Parties to this matter have submitted an executed Consent Agreement to me for final approval. This Consent Agreement is incorporated by reference into this Final Order and is hereby ratified.

As described in, and in accordance with, Paragraphs 8 through 10 of the Consent Agreement, the Respondent is ordered to pay the civil penalty amount of \$30,000 in installment payments. In accordance with 40 C.F.R. § 13.18, 40 C.F.R. § 21.31(c) and the U.S. EPA's Guidance on Evaluating a Violator's Ability to Pay a Civil Penalty in an Administrative Enforcement Action, Complainant has represented that the amount and the installment payment method are based on the Respondent's ability to pay and are in the best interest of the United States.

The terms of the Consent Agreement will become effective on the date it is filed with the Regional Hearing Clerk.

SO ORDERED THIS 23RD DAY OF APRIL 2019.

A handwritten signature in blue ink, appearing to read "LeAnn Jensen", is written over a horizontal line. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

LeAnn Jensen
Regional Judicial Officer

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

In the Matter of:

Southcoast Plating, Inc.
41 Coffin Street
New Bedford, MA 02746

Respondent

Proceeding under Section 3008(a) of the
Resource Conservation Recovery
Act, 142 U.S.C. § 6928(a)

EPA Docket No. RCRA-01-2018-0036

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Consent Agreement and Final Order has been sent to the following persons on the date noted below:

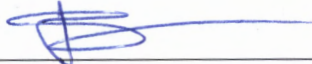
Original and One Copy
(Hand-Delivered):

Wanda I. Santiago
Regional Hearing Clerk
U.S. Environment Protection Agency, Region I
5 Post Office Square - Suite 100 (ORC04-6)
Boston, MA 02109-3912

Copy
(Electronic mail):

Jamy Madeja, Esq.
Buchanan & Associates
100 Cambridge Street, Suite 14
Boston MA 02114

Dated: APR 2 5 2019



John Hultgren
Senior Enforcement Counsel
Office of Environmental Stewardship
U.S. Environmental Protection Agency – Region I
5 Post Office Square - Suite 100 (OES04-2)
Boston, MA 02109-3912
Tel.: (617) 918-1761
Fax: (617) 918-0761
Email: hultgren.john@epa.gov

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1**

In the Matter of:

Southcoast Plating, Inc.
41 Coffin Street
New Bedford, MA 02746

Respondent

Proceeding under Section 3008(a) of the
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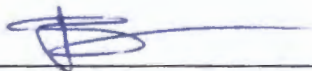
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(Hand-Delivered):

Wanda I. Santiago
Regional Hearing Clerk
U.S. Environment Protection Agency, Region I
5 Post Office Square - Suite 100 (ORC04-6)
Boston, MA 02109-3912

Copy
(Electronic mail):

Jamy Madeja, Esq.
Buchanan & Associates
100 Cambridge Street, Suite 14
Boston MA 02114

Dated: APR 2 5 2019



John Hultgren
Senior Enforcement Counsel
Office of Environmental Stewardship
U.S. Environmental Protection Agency – Region I
5 Post Office Square - Suite 100 (OES04-2)
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Email: hultgren.john@epa.gov