



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

CERTIFIED MAIL RETURN RECEIPT

MAY 31 2018,

Mr. Ethan R. Ware, Esq.
McNair Law Firm, P.A.
1441 Main Street
Suite 1250
Columbia, South Carolina 29201

Re: Palmetto Plating, EPA ID# SCR000004739 and SCD982091514
Consent Agreement and Final Order, Docket No. RCRA-04-2018-4001(b) and
Consent Agreement and Final Order, Docket No. RCRA-04-2018-4002(b)

Dear Mr. Ware:

Enclosed are copies of the Consent Agreement and Final Orders (CA/FOs) as filed with the Regional Hearing Clerk in the above-referenced matters. Per the terms of the CA/FOs, civil penalty payments are due within sixty (60) days of the effective date. The effective date of each CA/FO is the date that CA/FO is filed with the Regional Hearing Clerk.

Thank you for your assistance in resolving this matter. If you have any questions, please feel free to contact me at 404-562-8590, or by email at lamberth.larry@epa.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Larry L. Lamberth".

Larry L. Lamberth
Chief, Enforcement and Compliance Branch
RCR Division

Enclosure

cc: Van Keisler, SC DHEC
Rob McDaniel, SC DHEC
John Cutchin, Palmetto Plating Co., Inc.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)	DOCKET NO.: RCRA-04-2018-4001(b)
)	
Palmetto Plating Co., Inc.)	
510 Saco Lowell Road)	Proceeding Under Section 3008(a) of the
Easley, South Carolina 29641)	Resource Conservation and Recovery Act,
EPA ID Nos.: SCR 000 004 739)	42 U.S.C. § 6928(a)
)	
Respondent)	
_____)	

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ADMINISTRATIVE SERVICES SECTION

CONSENT AGREEMENT

I. NATURE OF THE ACTION

1. This is a civil administrative enforcement action, pursuant to Section 3008(a) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a), ordering compliance with the requirements of the South Carolina Hazardous Waste Management Act (SCHWMA), S.C. Code Ann. § 44-56-10 *et seq.* [Subtitle C of RCRA, 42 U.S.C. §§ 6921-6939g], and the regulations promulgated pursuant thereto and set forth at the South Carolina Hazardous Waste Management Regulations (SCHWMR) 25 S.C. Code Ann. Regs. 61-79.260-270 and 61-79.273 [Title 40 of the Code of Federal Regulations (C.F.R.), Parts 260 through 270 and 273]. This action seeks injunctive relief and the imposition of civil penalties pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for violations of Section 44-56-60(a)(2) and (b) of the SCHWMA, SC. Code Ann. § 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925] and 25 S.C. Code Ann. Regs. 61-79.260-270, and 61-79.273 [40 C.F.R. Parts 260 through 270 and 273].

2. The *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, which govern this action and are promulgated at 40 C.F.R. Part 22, provide that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order (CA/FO). 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).

3. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to settle this action. Accordingly, before any testimony has been taken upon the pleadings and without any admission of violation or adjudication of any issue of fact or law and in accordance with 40 C.F.R. § 22.13(b), Complainant and Respondent have agreed to the execution of this CA/FO, and Respondent hereby agrees to comply with the terms of this CA/FO.

II. THE PARTIES

4. Complainant is the Chief, Enforcement and Compliance Branch, Resource Conservation and Restoration Division, United States Environmental Protection Agency (EPA) Region 4. Complainant is authorized to issue the instant CA/FO pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and applicable delegations of authority.
5. Respondent is Palmetto Plating Co., Inc., a corporation organized under the laws of South Carolina (State). Respondent is the owner and operator of an anodizing and electroless-plating facility located at 510 Saco Lowell Road, Easley, South Carolina (the "Saco Lowell Facility").

III. PRELIMINARY STATEMENTS

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the State has received final authorization to carry out a hazardous waste program in lieu of the federal program set forth in RCRA. The requirements of the authorized State program are found at SCHWMA, S.C. Code Ann. § 44-56-10 *et seq.* and SCHWMR 25 S.C. Code Ann. Regs. 61-79.260-270 and 61-79.273.
7. Pursuant to Section 3006(g) of RCRA, 42 U.S.C. § 6926(g), the requirements established by the Hazardous and Solid Waste Amendments of 1984 (HSWA), Pub. L. 98-616, are immediately effective in all states regardless of their authorization status and are implemented by the EPA until a state is granted final authorization with respect to those requirements. The State has received final authorization for certain portions of HSWA, including those recited herein.
8. Although the EPA has granted the State authority to enforce its own hazardous waste program, the EPA retains jurisdiction and authority to initiate an independent enforcement action pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2). This authority is exercised by the EPA in the manner set forth in the Memorandum of Agreement between the EPA and the State.
9. As the State's authorized hazardous waste program operates in lieu of the federal RCRA program, the citations for the violations of those authorized provisions alleged herein will be to the authorized State program; however, for ease of reference, the 2016 federal citations will follow in brackets.
10. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), Complainant has given notice of this action to the State before issuance of this CA/FO.
11. Sections 44-56-30 and 44-56-35 of the SCHWMA, S.C. Code Ann. § 44-56-30 and 44-56-35 [Section 3002(a) of RCRA, 42 U.S.C. § 6922(a)], requires the promulgation of standards applicable to generators of hazardous waste. The implementing regulations for these standards are found at 25 S.C. Code Ann. Regs. 61-79 Part 262. [40 C.F.R. Part 262].
12. Section 44-56-60(a)(2) and (b) of the SCHWMA, S.C. Code Ann. § 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925], sets forth the requirement that a facility treating, storing, or disposing of hazardous waste must have a permit or interim status. The implementing regulations for this requirement are found at 25 S.C. Code Ann. Regs. 61-79 Part 264 (permitted)

and 25 S.C. Code Ann. Regs. 61-79 Part 265 (interim status)] [40 C.F.R. Parts 264 (permitted) and 265 (interim status)].

13. Pursuant to 25 S.C. Code Ann. Regs. 61-79.261.2 [40 C.F.R. § 261.2], a “solid waste” is any discarded material that is not otherwise excluded from the regulations. A “discarded material” includes any material that is abandoned by being stored in lieu of being disposed.
14. Pursuant to 25 S.C. Code Ann. Regs. 61-79.261.3 [40 C.F.R. § 261.3], a solid waste is a “hazardous waste” if it meets any of the criteria set forth in 25 S.C. Code Ann. Regs. 61-79.261.3(a)(2) [40 C.F.R. § 261.3(a)(2)] and is not otherwise excluded from regulation as a hazardous waste by 25 S.C. Code Ann. Regs. 61-79.261.4(b) [40 C.F.R. § 261.4(b)].
15. Pursuant to 25 S.C. Code Ann. Regs. 61-79.261.3(a)(2)(i) and 61-79.261.20 [40 C.F.R. §§ 261.3(a)(2)(i) and 261.20], solid wastes that exhibit any of the characteristics identified in 25 S.C. Code Ann. Regs. 61-79.261.21-24 [40 C.F.R. §§ 261.21-24] are “characteristic hazardous wastes” and are provided with the EPA Hazardous Waste Numbers D001 through D043.
 - a. Pursuant to 25 S.C. Code Ann. Regs. 61-79.261.20 and 61-79.261.22 [40 C.F.R. §§ 261.20 and 261.22], a solid waste that exhibits the characteristic of corrosivity is a hazardous waste and is identified with the EPA Hazardous Waste Number D002.
 - b. Pursuant to 25 S.C. Code Ann. Regs. 61-79.261.20 and 61-79.261.24 [40 C.F.R. §§ 261.20 and 261.24], a solid waste that exhibits the characteristic of toxicity is a hazardous waste and is identified with the EPA Hazardous Waste Number associated with the toxic contaminant causing it to be hazardous. Pursuant to 25 S.C. Code Ann. Regs. 61-79.261.24 [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for cadmium is identified with the EPA Hazardous Waste Number D006.
 - c. Pursuant to 25 S.C. Code Ann. Regs. 61-79.261.20 and 61-79.261.24 [40 C.F.R. §§ 261.20 and 261.24], a solid waste that exhibits the characteristic of toxicity is a hazardous waste and is identified with the EPA Hazardous Waste Number associated with the toxic contaminant causing it to be hazardous. Pursuant to 25 S.C. Code Ann. Regs. 61-79.261.24 [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for chromium is identified with the EPA Hazardous Waste Number D007.
16. Pursuant to 25 S.C. Code Ann. Regs. 61-79.261.3(a)(2)(ii) and 61-79.261.30 [40 C.F.R. §§ 261.3(a)(2)(ii) and 261.30], a solid waste is a “listed hazardous waste” if it is listed in 25 S.C. Code Ann. Regs. 61-79 Part 261, Subpart D [40 C.F.R. Part 261, Subpart D]. Pursuant to 25 S.C. Code Ann. Regs. 61-79.261.31(a) [40 C.F.R. § 261.31(a)], wastewater treatment sludges from electroplating operations, except from the following processes: (1) sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum, are identified as F006 listed hazardous wastes from nonspecific sources.

17. Pursuant to 25 S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], a “facility” includes “all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste.”
18. Pursuant to 25 S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], a “generator” is defined as any person, by site, whose act or process produces hazardous waste identified or listed in 25 S.C. Code Ann. Regs. 61-79 Part 261 [40 C.F.R. Part 261], or whose act first causes a hazardous waste to become subject to regulation.
19. Pursuant to 25 S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], an “owner” is “the person who owns a facility or part of a facility” and an “operator” is “the person responsible for the overall operation of a facility.”
20. Pursuant to 25 S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], a “person” includes a corporation.
21. Pursuant to 25 S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], “storage” is “the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.”
22. Pursuant to 25 S.C. Code Ann. Regs. 61-79.262.34(a) [40 C.F.R. § 262.34(a)], a generator of 1,000 kilograms or greater of hazardous waste in a calendar month is a large quantity generator (LQG) and may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, as required by Sections 44-56-60(a)(2) and (b) of the SCHWMA, S.C. Code Ann. § 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925], provided that the generator complies with the conditions listed in 25 S.C. Code Ann. Regs. 61-79.262.34(a)(1)-(4) [40 C.F.R. § 262.34(a)(1)-(4)] (hereinafter referred to as the “LQG Permit Exemption”).
 - a. Pursuant to 25 S.C. Code Ann. Regs. 61-79.262.34(a)(2) [40 C.F.R. § 262.34(a)(2)], which is a condition of the LQG Permit Exemption, a generator is required to ensure that the date upon which each period of accumulation begins is clearly marked and visible on each container;
 - b. Pursuant to 25 S.C. Code Ann. Regs. 61-79.262.34(a)(3) [40 C.F.R. § 262.34(a)(3)], which is a condition of the LQG Permit Exemption, a generator is required to label or clearly mark each container and tank accumulating hazardous waste on-site with the EPA Hazardous Waste Number(s) and the words: “Hazardous Waste – Federal laws prohibit improper disposal”;
 - c. Pursuant to 25 S.C. Code Ann. Regs. 61-79.262.34(a)(4) [40 C.F.R. § 262.34(a)(4)], which incorporates 25 S.C. Code Ann. Regs. 61-79.265.31 [40 C.F.R. § 265.31], and is a condition of the LQG Permit Exemption, a generator is required to maintain and operate its facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment; and

- d. Pursuant to 25 S.C. Code Ann. Regs. 61-79.262.34(a)(4) [40 C.F.R. § 262.34(a)(4)], which incorporates 25 S.C. Code Ann. Regs. 61-79.265.35 [40 C.F.R. § 265.35], and is a condition of the LQG Permit Exemption, a generator is required to maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.
23. Pursuant to S.C. Code Ann. Regs. 61-79.262.11 [40 C.F.R. § 262.11], a person who generates a solid waste, as defined in 25 S.C. Code Ann. Regs. 61-79.261.2 [40 C.F.R. § 261.2], must determine if that waste is a hazardous waste following the methods articulated in S.C. Code Ann. Regs. 61-79.262.11 [40 C.F.R. § 262.11].
24. Pursuant to S.C. Code Ann. Regs. 61-79.262.20 [40 C.F.R. § 262.20(a)(1)], a generator who transports, or offers for transport a hazardous waste for offsite treatment, storage, or disposal, must prepare a Manifest on EPA Form 8700-22 according to the instructions.
25. Pursuant to 25 S.C. Code Ann. Regs. 61-79.262.34(b) [40 C.F.R. § 262.34(b)], an LQG who accumulates hazardous waste for more than 90 days is an operator of a storage facility and is subject to the requirements of 25 S.C. Code Ann. Regs. 61-79 Parts 264, 265 and 267 [40 C.F.R. Parts 264, 265, and 267] and the permit requirements of 25 S.C. Code Ann. Regs. 61-79.270 [40 C.F.R. Part 270].
26. Pursuant to 25 S.C. Code Ann Regs. 61-79.262.34(c)(1) [40 C.F.R. § 262.34(c)(1)], a generator may accumulate as much as 55 gallons of hazardous waste in containers at or near the point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or without having interim status, as required by Sections 44-56-60(a)(2) and (b) of the SCHWMA, S.C. Code Ann. § 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925], and without complying with 25 S.C. Code Ann Regs. 61-79.262.34(a) [40 C.F.R. § 262.34(a)], provided that the generator complies with the satellite accumulation area conditions listed in 25 S.C. Code Ann Regs. 61-79.262.34(c)(2) [40 C.F.R. § 262.34(c)(2)] with respect to any excess wastes (hereinafter referred to as the “SAA Permit Exemption”).
27. Pursuant to 25 S.C. Code Ann Regs. 61-79.262.34(c)(2) [40 C.F.R. § 262.34(c)(2)], which is a condition of the SAA Permit exemption, a generator who accumulates hazardous waste in excess of 55 gallons at or near any point of generation must, with respect to that amount of excess waste, comply within three days with paragraph (a) of 25 S.C. Code Ann. Regs. 61-79.262.34 [40 C.F.R. 262.34] or other applicable provisions. During the three-day period the generator must continue to comply with paragraphs (c)(1)(i) and (ii) of 25 S.C. Code Ann. Regs. 61-79.262.34 [40 C.F.R. § 262.34]. The generator must mark the container holding the excess accumulation of hazardous waste with the date the excess amount began accumulating.
28. Pursuant to 25 S.C. Code Ann. Regs. 61-79.273.9 [40 C.F.R. § 273.9], a “Small Quantity Handler of Universal Waste” is “a universal waste handler who does not accumulate 5,000 kilograms or more of universal waste (batteries, pesticides, mercury-containing equipment, or lamps, calculated collectively) at any one time.

29. Pursuant to 25 S.C. Code Ann Regs. 61-79.273.15(a) [40 C.F.R. § 273.15(a)], a small quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated or received from another handler.

IV. EPA ALLEGATIONS AND DETERMINATIONS

30. Respondent is a “person” as defined in 25 S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10].
31. Respondent is the “owner/operator” of the Saco Lowell Facility, a “facility” located at 510 Saco Lowell Road, Easley, South Carolina, as those terms are defined in 25 S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10].
32. At the Saco Lowell Facility, Respondent is a “generator” of “hazardous waste” as those terms are defined in 25 S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10] and 25 S.C. Code Ann. Regs. 61-79.261.3 [40 C.F.R. § 261.3].
33. Respondent performs anodizing, bright nickel, chromate conversion, decorative chrome, hard chrome, electropolishing, electroless nickel, enviroloy nickel, and pickling/passivation processes at the Saco Lowell Facility.
34. Respondent is a LQG of hazardous waste as well as a small quantity handler of universal waste at the Saco Lowell Facility. Hazardous wastes managed at the Saco Lowell Facility are primarily generated from electroplating operations and electroplating wastewater treatment activities, and include hazardous wastes having the characteristics of corrosivity (D002), toxicity for cadmium (D006), toxicity for chromium (D007), and listed wastewater treatment sludges from electroplating operations (F006). Universal hazardous wastes managed at the Saco Lowell Facility include used fluorescent bulbs.
35. On December 19, 2013, and on November 13, 2015, the EPA and the South Carolina Department of Health and Environmental Control (DHEC) conducted compliance evaluation inspections (CEIs) at the Respondent’s Saco Lowell Facility. The findings of the CEIs were documented in reports mailed to Respondent, dated April 22, 2014, and March 23, 2016.
36. During the December 19, 2013, and November 13, 2015, CEIs the EPA observed that Respondent had failed to meet the following conditions of the LQG Permit Exemption set forth in 25 S.C. Code Ann. Regs. 61-79.262.34(a)(1)-(4) [40 C.F.R. § 262.34(a)(1)-(4)], hazardous wastes generated at the Saco Lowell Facility:
- a. During the December 19, 2013, CEI, the EPA observed that Respondent had failed to mark containers accumulating D002, D006, D007 and F006 hazardous waste with the words: “Hazardous Waste – Federal laws prohibit improper disposal”.
 - b. During the December 19, 2013, CEI, the EPA observed that Respondent had failed to mark several containers accumulating for D002, D006, D007 and F006 hazardous waste with the date upon which each period of accumulation began.

- c. During the December 19, 2013, CEI, the EPA observed that Respondent had failed to mark several containers of for D002, D006, D007 and F006 hazardous waste with EPA Hazardous Waste Number(s).
 - d. During the December 19, 2013, CEI, the EPA observed that Respondent was storing several containers of for D002, D006, D007 and F006 hazardous waste with inadequate aisle spacing in the process area, in the back room, and in the first less than 90-day hazardous waste storage area of the Saco Lowell Facility.
37. The EPA therefore alleges that Respondent violated Section 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to meet the conditions of the LQG Permit Exemption set forth in 25 S.C. Code Ann. Regs. 61-79.262.34(a)(2) [40 C.F.R. § 262.34(a)(2)] by failing to appropriately date hazardous waste containers.
38. The EPA therefore alleges that Respondent violated Section 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to meet the conditions of the LQG Permit Exemption set forth in 25 S.C. Code Ann. Regs. 61-79.262.34(a)(3) [40 C.F.R. § 262.34(a)(3)] by failing to appropriately label hazardous waste containers.
39. The EPA therefore alleges that Respondent violated Section 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to meet the conditions of the LQG Permit Exemption set forth in 25 S.C. Code Ann. Regs. 61-79.262.34(a)(4) [40 C.F.R. § 262.34(a)(4)] by not complying with the aisle space requirements of 25 S.C. Code Ann. Regs. 61-79.265.35 [40 C.F.R. § 265.35].
40. During the December 19, 2013, RCRA CEI, the EPA observed that the Respondent was storing several containers of a new waste stream in the second less than 90-day hazardous waste storage area at the Saco Lowell Facility. The drums were labeled “Black EN-profile pending,” but the Respondent had not sent a sample of the waste for analysis to make an accurate hazardous waste determination.
41. The EPA therefore alleges Respondent violated S.C. Code Ann. Regs. 61-79.262.11 [40 C.F.R. § 262.11], by failing to make a hazardous waste determination on the solid waste generated at the Saco Lowell Facility.
42. During the December 19, 2013, RCRA CEI, and the EPA observed that Respondent had not prepared a hazardous waste manifest for several containers of speculatively accumulated hazardous waste generated at the Saco Lowell Facility and transported to Respondent’s black oxide conversion facility located at 115 Folger Avenue, Easley, South Carolina.
43. The EPA therefore alleges Respondent violated S.C. Code Ann. Regs. 61-79.262.20 [40 C.F.R. § 262.20], by failing to properly prepare a manifest for hazardous waste offered for transport.

44. During the December 19, 2013, RCRA CEI, the EPA observed that Respondent was storing various containers of hazardous waste for longer than 90 days at the Saco Lowell Facility.
45. The EPA therefore alleges Respondent violated Section 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste in excess of 90 days without a permit or interim status, in violation of 25 S.C. Code Ann. Regs. 61-79.262.34(b) [40 C.F.R. § 262.34(b)].
46. During the November 13, 2015, RCRA CEI, the EPA observed two SAA containers that each held greater than 55-gallons of hazardous waste that were not marked with an accumulation start date.
47. The EPA therefore alleges Respondent violated 25 S.C. Code Ann Regs. 61-79.262.34(c)(2) [40 C.F.R. § 262.34(c)(2)], by failing to mark a container holding excess accumulation of hazardous waste with the date the excess amount began accumulating.
48. During the December 19, 2013, RCRA CEI, the EPA observed that Respondent had stored one box of 8-foot universal waste lamps in the catch-all storage area for a total of one year and 49 days.
49. The EPA therefore alleges Respondent violated 25 S.C. Code Ann Regs. 61-79.273.15(a) [40 C.F.R. § 273.15(a)], by accumulating universal waste for longer than one year from the date the universal waste is generated.

V. TERMS OF AGREEMENT

Based on the foregoing Preliminary Statements, Allegations and Determinations, the parties agree to the following:

50. For the purposes of this CA/FO, Respondent admits the jurisdictional allegations set out in the above paragraphs pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928.
51. Respondent neither admits nor denies the factual allegations and determinations set out in this CA/FO.
52. Respondent waives any right to contest the allegations and its right to appeal the proposed Final Order accompanying the Consent Agreement.
53. Respondent waives its right to challenge the validity of this CA/FO and the settlement of the matters addressed in this CA/FO based on any issue related to the Paperwork Reduction Act, 44 U.S.C. § 3501 *et seq.*
54. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to the EPA officials where the purpose of such discussion, memorandum, or communication is to persuade such official to accept and issue this CA/FO.

55. Respondent waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CA/FO, including any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.
56. The parties agree that the settlement of this matter is in the public interest and that this CA/FO is consistent with the applicable requirements of RCRA.
57. Respondent consents to the issuance of the specified compliance order.
58. Respondent, by signing this CA/FO, certifies to the best of its knowledge that Respondent is currently in compliance with RCRA and the authorized State hazardous waste program.
59. The parties agree that compliance with the terms of this CA/FO shall resolve the violations alleged and the facts stipulated to in this CA/FO.
60. Each party will pay its own costs and attorneys' fees.

VI. WORK TO BE PERFORMED

61. Respondent shall complete the Work required by this CA/FO no later than one (1) year following the effective date of this CA/FO.
62. Within one (1) year from the effective date of this CA/FO, Respondent agrees to submit to EPA and DHEC a written confirmation of its continued compliance or noncompliance with the hazardous waste requirements of the SCHWMA, S.C. Code Ann. § 44-56-10 et seq. [Subtitle C of RCRA, 42 U.S.C. §§ 6921-6939g], and the regulations promulgated pursuant thereto and set forth at the SCHWMR, 25 S.C. Code Ann. Regs. 61-79.260-270 and 61-79.273 [40 C.F.R. Parts 260 through 270 and 273], at the Saco Lowell Facility (accompanied by a copy of any appropriate supporting documentation). Any notice of noncompliance shall state the reasons for the noncompliance and when compliance is expected.
63. Within 60 days of the effective date of this CA/FO, Respondent agrees to develop, implement and submit to DHEC and the EPA a hazardous waste management plan ("HW Management Plan") for the Saco Lowell Facility, consistent with the requirements of the SCHWMA, S.C. Code Ann. § 44-56-10 et seq. [Subtitle C of RCRA, 42 U.S.C. §§ 6921-6939g], and the regulations promulgated pursuant thereto and set forth at the SCHWMR, 25 S.C. Code Ann. Regs. 61-79.260-270 and 61-79.273 [40 C.F.R. Parts 260 through 270 and 273]. Respondent agrees that the HW Management Plan will provide an outline of the hazardous waste management requirements and practices at the Saco Lowell Facility, and will be used to supplement training provided to Respondent's employees engaged in the handling of hazardous wastes. Respondent agrees to revise the HW Management Plan yearly to reflect any changes in processes and operations that affect hazardous waste management practices at the Saco Lowell Facility. The HW Management Plan should provide descriptions of all hazardous waste management practices performed by Respondent including, but not limited to:

- a. Procedures for making a hazardous waste determination and for identifying and managing the material while waiting for results of the determination.
- b. Procedures for managing hazardous waste SAA containers (closed, proper labeling, condition of container).
- c. Procedures for managing hazardous waste storage containers (closed, proper labeling, accumulation start date, condition of container) in the hazardous waste storage areas.
- d. Procedures for responding to leaks or spills of hazardous waste.
- e. Procedures for maintaining hazardous waste storage areas to ensure access to emergency equipment, internal alarms, external communication devices.
- f. Procedures for maintaining adequate aisle spacing in the hazardous waste storage areas.
- g. Procedures for filling out a Manifest (OMB Control Number 2050-0039) to accompany shipments of hazardous waste to a permitted hazardous waste Treatment, Storage or Disposal Facility.
- h. Procedures for preventing storage of hazardous waste greater than 90-days.
- i. Procedures for maintaining a hazardous waste training program designed to ensure compliance with hazardous waste management regulations.
- j. Procedures for maintaining a contingency plan in compliance with hazardous waste management regulations.
- k. Procedures for preventing storage of universal waste greater than one year from the date of generation.
- l. Respondent shall maintain the HW Management Plan on-site.

64. Respondent has also agreed to institute a third-party hazardous waste inspection program at the Saco Lowell Facility, and implement the third-party's recommendations to the extent required by hazardous waste regulations. Respondent agrees to retain, at its expense, a qualified third-party inspection team to conduct at least one (1) third-party inspection over the course of one year, documenting the third-party inspection through photographs, film, and written reports; providing the third-party inspection documentation to DHEC and the EPA; and implementing the third-party's recommendation.

- a. Within 45 days of the effective date of this CA/FO, Respondent shall engage a third-party inspection team ("Third-Party Team") and submit the Third-Party Team members' resumes and qualifications to the EPA. The Third-Party Team shall have at least one person with chemistry expertise, one expert in environmental compliance auditing, and one expert in chemical process safety management. One Third-Party Team member may fulfill more than one of these expertise requirements, but the Third-Party Team shall have at least two people for inspection safety reasons.
- b. To ensure the Third-Party Team's independence from Respondent and promote a thorough third-party inspection:
 - i. No member of the Third-Party Team may have previously performed work for Respondent or for any of Respondent's officers, although Team members who previously bid on projects but did not receive work from Respondent may participate;

- ii. No member of the Third-Party Team shall be allowed to work for Respondent or for any of Respondent's officers for five (5) years after the third-party inspection is completed;
 - iii. Before the third-party inspection, it is permissible for the Third-Party Team to visit the Facilities for purposes of bidding on Third-Party Inspection Program work and consulting on the Third-Party Team's inspection;
 - iv. Before conducting the third-party inspection, each member of the Third-Party Team shall have read this CA/FO and the CEI Reports issued by the EPA, dated April 22, 2014, and March 23, 2016;
 - v. During the third-party inspection, Respondent shall provide the Third-Party Team with unimpeded access to the entirety of the Saco Lowell Facility on any day that Respondent is operating. Respondent shall also permit the Third-Party Team to take photographs and film its third-party inspections;
 - vi. After the third-party inspection, no communication shall occur between Respondent and the Third-Party Team without DHEC and the EPA simultaneously being copied on the communication (except such communications that occur on-site while the third-party inspection is being conducted). Accordingly, all such communication must be transmitted such that DHEC and the EPA may be copied (i.e., USPS mail or e-mail); and
 - vii. Respondent shall not have an opportunity to review or comment on the third-party inspection report or drafts thereof before the Third-Party Team sends them to DHEC, the EPA and Respondent.
- c. The Third-Party Team shall conduct the third-party inspection within 11 months of the effective date of this CA/FO. The purpose of the third-party inspection is to give all parties the opportunity to assess how Respondent manages hazardous waste when Respondent is operating with the highest level of care. Accordingly, the Third-Party Team may give Respondent up to three (3) days of days of notice before the third-party inspection. The Third-Party Team shall inspect the whole Saco Lowell Facility, indoors and outdoors.
- d. Within 30 days after the inspection, the Third-Party Team shall simultaneously submit to DHEC, the EPA and Respondent an inspection report, photographs, and a digital video of the inspection ("Inspection Report"). The Inspection Report shall be organized by room and outdoor area visited, and provide detailed information about any deficiencies found, including proposed manners of correcting any deficiencies identified. Respondent shall not have the opportunity to review any draft or final Inspection Report before such submittal.
- e. Within 20 days of receiving the Inspection Report, Respondent shall remedy and/or correct any deficiencies identified in the Inspection Report and send a letter to DHEC

and the EPA confirming that the deficiencies have been corrected unless the parties agree that another deadline is appropriate.

- f. The Respondent shall keep copies of the Inspection Report, photographs and digital films for three (3) years.
- g. Respondent shall notify DHEC and the EPA immediately by telephone and e-mail if the Third-Party Team discovers any condition at the Saco Lowell Facility that could pose an imminent and substantial endangerment to human health or the environment.
- h. Notifications:
 - i. Submissions required by this CA/FO shall be in writing and shall be mailed to the following addresses with a copy also sent by electronic mail:

Laurie Benton DiGaetano
Enforcement and Compliance Specialist
Hazardous Waste Compliance and Enforcement Section
Enforcement and Compliance Branch
RCR Division, US EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8909
benton-digaetano.laurie@epa.gov

And to:

Robert S. McDaniel II
Manager, Enforcement Section
Division of Compliance and Enforcement
Bureau of Land and Waste management
S.C. Dept. of Health & Environmental Control
2600 Bull Street
Columbia, South Carolina 29201
mcdanirs@dhec.sc.gov

- ii. The EPA and/or DHEC will send all written communications to the following representative(s) for Respondent:

John Cutchin, President
c/o Staci Sorgee
Palmetto Plating Co., Inc.
510 Saco Lowell Road
Easley, South Carolina 29641
staci@palmettoplating.com
jcutchin@palmettoplating.com

- i. All submissions made by the Respondent or the Third-party to the EPA pursuant to the requirements of this CA/FO shall contain the following certification signed by a responsible corporate officer:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate 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 submissions of false information."

VII. PAYMENT OF CIVIL PENALTY

65. Utilizing the RCRA Civil Penalty Policy, the EPA calculated an initial penalty for Respondent's RCRA violations. Respondent alleged an inability to pay the proposed penalty and submitted the required financial documents to support its claim. After review of those documents, the EPA's financial expert determined that payment of the initial proposed penalty is beyond the means of Respondent. The financial expert's ability to pay analysis supported a downward adjustment of the penalty to \$2,500.00, including interest.
66. Respondent consents to the payment of a civil penalty in the amount of TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500.00), including interest, which is to be paid within sixty (60) calendar days of the effective date of this CA/FO.
67. Payment(s) shall be made by cashier's check, certified check, by electronic funds transfer (EFT), or by Automated Clearing House (ACH) (also known as REX or remittance express). If paying by check, the check shall be payable to: **Treasurer, United States of America**, and the facility name and docket number for this matter shall be referenced on the face of the check. If Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

United States Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

If Respondent sends payment by non-U.S. Postal express mail delivery, the payment shall be sent to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL

St. Louis, Missouri 63101
(314) 425-1818

If paying by EFT, Respondent shall transfer the payment to:

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 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"

If paying by ACH, Respondent shall remit payment to:

US Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking
Physical location of US Treasury facility:
5700 Rivertech Court
Riverdale, Maryland 20737
Contact: John Schmid, (202) 874-7026
REX (Remittance Express): 1-866-234-5681

68. Respondent shall submit a copy of the payment to the following individuals:

Regional Hearing Clerk
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

And to:

Laurie Benton DiGaetano
Senior Enforcement and Compliance Specialist
Hazardous Waste Compliance and Enforcement Section
Enforcement and Compliance Branch
RCR Division, US EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8909

69. If Respondent fails to remit the civil penalty as agreed to herein, the EPA is required to assess interest and penalties on debts owed to the United States and a charge to cover the costs of processing and handling the delinquent claim. Interest, at the statutory judgment rate provided for in 31 U.S.C. § 3717, will therefore begin to accrue on the civil penalty if not paid within sixty (60) calendar days after the effective date of this Consent Agreement or, if paying in

installments, not paid in accordance with the installment schedule provided above. Pursuant to 31 U.S.C. § 3717, Respondent must pay the following amounts on any amount overdue:

- a. Interest. Any unpaid portion of a civil penalty or stipulated penalty must bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Interest will therefore begin to accrue on a civil penalty or stipulated penalty if it is not paid by the last date required. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 4 C.F.R. § 102.13(c).
- b. Monthly Handling Charge. Respondent must pay a late payment handling charge of fifteen dollars (\$15.00) on any late payment, with an additional charge of fifteen dollars (\$15.00) for each subsequent thirty (30) calendar-day period over which an unpaid balance remains.
- c. Non-Payment Penalty. On any portion of a civil penalty or a stipulated penalty more than ninety (90) calendar days past due, Respondent must pay a non-payment penalty of six percent (6%) per annum, which will accrue from the date the penalty payment became due and is not paid. This non-payment is in addition to charges which accrue or may accrue under subparagraphs (a) and (b).

70. Penalties paid pursuant to this CA/FO are not deductible for federal purposes under 26 U.S.C. § 162(f).

VIII. PARTIES BOUND

71. This CA/FO shall be binding on Respondent and its successors and assigns. Respondent shall cause its officers, directors, employees, agents, and all persons, including independent contractors, contractors, and consultants acting under or for Respondent, to comply with the provisions hereof in connection with any activity subject to this CA/FO.
72. No change in ownership, partnership, corporate or legal status relating to the Facility will in any way alter Respondent's obligations and responsibilities under this CA/FO.
73. The undersigned representative of Respondent hereby certifies that she or he is fully authorized to enter into this CA/FO and to execute and legally bind Respondent to it.

IX. RESERVATION OF RIGHTS

74. Notwithstanding any other provision of this CA/FO, an enforcement action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should the EPA find that the handling, storage, treatment, transportation, or disposal of solid waste or hazardous waste at Respondent's Facility may present an imminent and substantial endangerment to human health or the environment.

75. Complainant reserves the right to take enforcement action against Respondent for any future violations of RCRA and the implementing regulations and to enforce the terms and conditions of this CA/FO.
76. Except as expressly provided herein, nothing in this CA/FO shall constitute or be construed as a release from any civil or criminal claim, cause of action, or demand in law or equity for any liability Respondent may have arising out of, or relating in any way to, the storage, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from Respondent's Facility.

X. OTHER APPLICABLE LAWS

77. All actions required to be taken pursuant to this CA/FO shall be undertaken in accordance with the requirements of all applicable local, state, and Federal laws and regulations. Respondent shall obtain or cause its representatives to obtain all permits and approvals necessary under such laws and regulations.

XI. SERVICE OF DOCUMENTS

78. A copy of any documents that Respondent files in this action shall be sent to the following attorney who represents the EPA in this matter and who is authorized to receive service for the EPA in this proceeding:

Mr. Roberto Busó, Esq.
Associate Regional Counsel
Office of RCRA, OPA and UST Legal Support
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

79. A copy of any documents that Complainant files in this action shall be sent to the following individual who represents Respondent in this matter and who is authorized to receive service for Respondent in this proceeding:

Mr. Ethan R. Ware, Esq.
McNair Law Firm, P.A.
1441 Main Street
Suite 1250
Columbia, South Carolina 29201

XII. SEVERABILITY

80. It is the intent of the parties that the provisions of this CA/FO are severable. If any provision or authority of this CA/FO or the application of this CA/FO to any party or circumstances is held by any judicial or administrative authority to be invalid or unenforceable, the application of such

provisions to other parties or circumstances and the remainder of the CA/FO shall remain in force and shall not be affected thereby.

XIII. MODIFICATION

81. This CA/FO may only be modified by mutual agreement of the EPA and Respondent and subject to the approval of the Regional Judicial Officer. Any agreed modifications shall be in writing, be signed by both parties, shall have as their effective date the date on which they are approved by the Regional Judicial Officer, and shall be incorporated into this CA/FO as an appendix.
82. Any requests for modification of a compliance date contained in this CA/FO, or for a modification of an approved requirement, must be made in writing. Such requests must be timely and provide justification for any proposed compliance date or approved requirement modification. The EPA has no obligation to approve such requests, but if it does so, such approval must be in writing.

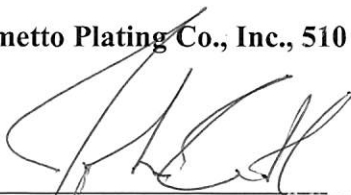
XIV. EFFECTIVE DATE

83. The effective date of this CA/FO shall be the date on which the CA/FO is filed with the Regional Hearing Clerk.

In the matter of Palmetto Plating Co. Inc., Docket No. RCRA-04-2018-4001(b):


AGREED AND CONSENTED TO:

For: Palmetto Plating Co., Inc., 510 Saco Lowell Road, Easley, South Carolina 29641

By: 
Mr. John Cutchin, Owner
Palmetto Plating Co., Inc.

Dated: MAY 14, 2018

For: United States Environmental Protection Agency

By: 
Larry L. Lamberth
Chief, Enforcement and Compliance Branch
Resource Conservation and Restoration Division

Dated: 05/24/18

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

IN THE MATTER OF:) DOCKET NO.: RCRA-04-2018-4001(b)
)
Palmetto Plating Co., Inc.)
510 Saco Lowell Road)
Easley, South Carolina 29641) Proceeding Under Section 3008(a) of the
EPA ID No.: SCR 000 004 739) Resource Conservation and Recovery Act,
) 42 U.S.C. § 6928(a)
)
Respondent)
_____)

FINAL ORDER

The foregoing Consent Agreement is hereby approved, ratified and incorporated by reference into this Final Order in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22. The Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

BEING AGREED, IT IS SO ORDERED this 31st day of May, 2018.

BY: Tanya Floyd
Tanya Floyd
Regional Judicial Officer
EPA Region 4

CERTIFICATE OF SERVICE

I hereby certify that I have this day filed the original and a true and correct copy of the foregoing Consent Agreement and the attached Final Order (CA/FO), in the Matter of Palmetto Plating Co., Inc., Docket Number: RCRA-04-2018-4001(b), and have served the parties listed below in the manner indicated:

Mr. Roberto Busó
Associate Regional Counsel
Office of RCRA, OPA and UST Legal Support
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

(Via EPA's electronic mail)

Ms. Quantindra Smith
Enforcement and Compliance Branch
RCR Division
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

(Via EPA's electronic mail)

Mr. Ethan R. Ware
McNair Law Firm, P.A.
1441 Main Street
Suite 1250
Columbia, South Carolina 29201

(Via Certified Mail – Return Receipt Requested)

John Cutchin, President
c/o Staci Sorgee
Palmetto Plating Co., Inc.
510 Saco Lowell Road
Easley, South Carolina 29641

(Via Certified Mail – Return Receipt Requested)

Date: 5-31-18



Patricia A. Bullock
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
(404) 562-9511