



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

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

**AUG 08 2013**

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Mr. Evan Slavitt  
Vice President for Business and Legal Affairs  
AVX Corporation  
801 17<sup>th</sup> Avenue South  
Myrtle Beach, South Carolina 29578-0867

SUBJ: Consent Agreement and Final Order  
Docket Number: RCRA-04-2013-4007(b)  
EPA ID No.: FLD 039 677 810

Dear Mr. Slavitt:

Enclosed please find a fully executed Consent Agreement and Final Order (CA/FO) issued pursuant to Section 3008(a) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a). Please note that payment of the penalty is due within thirty calendar days of the effective date of this CA/FO. Should you have any questions please feel free to contact William Kappler at (404) 562-8498.

Sincerely,

A handwritten signature in blue ink that reads "CÉSAR A. ZAPATA".

César A. Zapata, Chief  
RCRA and OPA Enforcement and Compliance  
Branch  
RCRA Division

Enclosure

cc Max Justice, Parker Poe  
Colleen Michuda, EPA Region 4

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4**

IN THE MATTER OF:	)	DOCKET NO.: RCRA-04-2013-4007(b)
	)	
American Technical Ceramics (Florida), Inc.)	)	Proceeding Under Section 3008(a) of the
2201 Corporate Square Boulevard	)	Resource Conservation and Recovery Act,
Jacksonville, Florida 32216	)	42 U.S.C. § 6928(a)
EPA ID No.: FLD 039 677 810	)	
	)	
Respondent	)	

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HEARING CLERK

**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 Chapter 403 of the Florida Statutes (Fla. Stat.), Part IV Resource Recovery and Management, Section 403.702 *et seq.* [Subtitle C of RCRA, 42 U.S.C. §§ 6921-6939f], and the Florida Hazardous Waste Rules promulgated pursuant thereto and set forth at Florida Administrative Code Annotated Rules (Fla. Admin. Code Ann. r.) Chapter 62-730 [Title 40 of the Code of Federal Regulations (C.F.R.), Parts 260 through 270]. This action seeks the imposition of civil penalties pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for violations of Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] and Fla. Admin. Code Ann. r. 62-730 [40 C.F.R. Parts 260 through 270].
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).
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, RCRA and OPA Enforcement and Compliance Branch, RCRA Division, Region 4, United States Environmental Protection Agency (EPA).

5. Respondent is American Technical Ceramics (Florida), Inc., a corporation incorporated under the laws of the State of Florida. Respondent operates a business located at 2201 Corporate Square Boulevard, Jacksonville, Florida (Facility).

### III. PRELIMINARY STATEMENTS

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the State of Florida (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 Fla. Stat., Chapter 403, Part IV Resource Recovery and Management, Section 403.702 et seq., and Fla. Admin. Code Ann. r. 62-730.
7. Pursuant to Section 3008(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 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 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. Section 403.721 of the Florida Statutes, Fla. Stat. § 403.721 [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 Fla. Admin. Code Ann. r. 62-730.160 [40 C.F.R. Part 262].
12. Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [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 Fla. Admin. Code Ann. r. 62-730.180(1) (permitted) and 62-730.180(2) (interim status) [40 C.F.R. Parts 264 (permitted) and 265 (interim status)].
13. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [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 Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.3], a solid waste is a "hazardous waste" if it meets any of the criteria set forth in Fla. Admin. Code Ann. r.

62-730.030(1) [40 C.F.R. § 261.3(a)(2)] and is not otherwise excluded from regulation as a hazardous waste by Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.4(b)].

15. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.30], a solid waste is a listed hazardous waste if it is listed in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. Part 261, Subpart D].
16. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.20], solid wastes that exhibit any of the characteristics identified in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.21-24] are characteristic hazardous wastes, and are provided with the EPA Hazardous Waste Numbers D001 through D043.
17. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [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 Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. Part 261], or whose act first causes a hazardous waste to become subject to regulation.
18. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], a “person” includes an individual, trust, firm, joint stock company, Federal agency, corporation (including a government corporation), partnership, association, municipality, commission, political subdivision of a state, or any interstate body.
19. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [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.
20. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [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.
21. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], a “tank system” is defined as a hazardous waste storage or treatment tank and its associated equipment and containment system.
22. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.11], a person who generates a solid waste, as defined in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.2], must determine if that waste is a hazardous waste following the methods articulated in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.11].
23. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)], a generator of 1,000 kilograms or greater of hazardous waste per month is a Large Quantity Generator (LQG), and may accumulate hazardous waste on-site for 90 days or less, without a permit or interim status as required by Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925], provided that the generator complies with the management requirements of Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 262.34(a)(1)-(4)] (hereinafter referred to as the “LQG Permit Exemption”).
24. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(1)(i)], which incorporates Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 265.173(a)], which is a

condition of the LQG Permit Exemption, a generator is required to keep containers of hazardous waste closed when waste is not being added or removed.

25. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(1)(ii)], which incorporates Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. Part 265, Subpart J], which is a condition of the LQG Permit Exemption, a generator accumulating hazardous waste in tank systems is required to comply with the tank standards of Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. Part 265, Subpart J].
26. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [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 for inspection on each container.
27. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(3)], which is a condition of the LQG Permit Exemption, a generator is required to clearly label or mark each container and tank with the words “Hazardous Waste.”
28. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(4)], which incorporates Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 265.35], which is a condition of the LQG Permit Exemption, a generator is required to maintain adequate aisle space between containers of hazardous waste to allow for inspection of the condition and labels of the individual containers.
29. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(4)], which incorporates Fla. Admin. Code Ann. r. 62-730.183 [40 C.F.R. § 268.7(a)(5)], which is a condition of the LQG Permit Exemption, if a generator is managing and treating prohibited waste or contaminated soil in tanks, containers, or containment buildings regulated under Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34] to meet applicable land disposal restriction (LDR) treatment standards, the generator is required to develop and follow a written waste analysis plan which describes the procedures it will carry out to comply with the treatment standards. The plan must be kept on site in the generator's records.
30. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(c)(1)], a generator may accumulate as much as 55 gallons of hazardous waste, or one quart of acutely hazardous waste, in containers at or near the point of generation where the wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or interim status as required by Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925], and without complying with Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)], provided that the generator complies with the satellite accumulation area management requirements listed in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(c)(1)(i)-(ii)] (hereinafter referred to as the “SAA Permit Exemption”).
31. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(c)(1)(i)], which incorporates Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 265.173(a)], which is a condition of the SAA Permit Exemption, a generator is required to keep containers of hazardous waste closed when waste is not being added or removed.

32. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(c)(1)(ii)], which is a condition of the SAA Permit Exemption, a generator is required to mark its satellite accumulation containers either with the words “Hazardous Waste” or with other words that identify the contents of the containers.

#### IV. EPA ALLEGATIONS AND DETERMINATIONS

33. Respondent is a “person” as defined in Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10].
34. Respondent is the “owner/operator” of a “facility” located at 2201 Corporate Square Boulevard, Jacksonville, Florida, as those terms are defined in Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10].
35. Respondent is a “generator” of both listed and characteristic “hazardous wastes” as those terms are defined in Fla. Admin. Code Ann. r. 62-730.020(1) and 62-730.030(1) [40 C.F.R. §§ 260.10 and 261.3].
36. Respondent designs and manufactures capacitors, resistors, inductors, and thin film products. The products consist of multi-layer capacitors (MLC), single-layer capacitors (SLC), broad-band microwave capacitors (BMC), resistive products (RP) and thin film resistors (TFR).
37. Respondent has been operating at its present location since approximately 1981.
38. On March 31, 2010, Respondent notified the Florida Department of Environmental Protection (FDEP) as a LQG of hazardous waste, meaning that it generates 1,000 kilograms or greater of hazardous waste per calendar month.
39. On May 10, 2010, a representative of the EPA and a representative of the FDEP performed a RCRA Compliance Evaluation Inspection (CEI) of Respondent’s Facility. The findings of the CEI were documented in a May 21, 2012, “Notice of Violation and Opportunity to Show Cause” letter and a CEI Report, dated February 14, 2012.
40. At the time of the CEI, a hazardous waste determination had not been performed on unusable chemicals/products generated from an inventory/cleanout of chemicals, located in the building 8 90-day or less storage area, and on waste liquid accumulating in a container located in the building 5 analytical laboratory.
41. The EPA therefore alleges that Respondent violated Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.11] by failing to make a hazardous waste determination on solid waste generated at its Facility.
42. At the time of the CEI, a 5-gallon container of waste acetone, methanol and/or alcohol on the bottom front row of a cabinet in the TFR 90-day or less storage area was found with the top cap not secured tightly in a closed position.
43. The EPA therefore alleges that Respondent violated Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption given in Fla. Admin. Code

Ann. r. 62-730.160(1) [40 C.F.R. § 262.34 (a)(1)(i)], by not complying with Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 265.173(a)].

44. At the time of the CEI, hazardous waste generated from the MLC, TFR and RP process operations was treated in tanks located in building 12 (WWT). The tanks located in building 12 did not comply with the applicable hazardous waste tank standards set forth in Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. Part 265, Subpart J], including, but not limited to, requirements for a tank integrity assessment, tank inspections, tank and tank ancillary equipment secondary containment, and establishment of a closure plan.
45. The EPA therefore alleges that Respondent violated Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption given in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(1)(ii)], by not complying with Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. Part 265, Subpart J].
46. At the time of the CEI, a 55-gallon container of photo resist paper wipes, a 55-gallon container of waste alcohol, a 55-gallon container of waste acetone, a 20-gallon container of waste hydrofluoric acid, and four 5-gallon containers of waste acetone, methanol and/or alcohol were found in the TFR building 7 90-day or less storage area, and 52 containers ranging from 5 cubic centimeter syringes to 1,000 milliliter containers were found in the building number 8 90-day or less storage area, without an accumulation start date.
47. The EPA therefore alleges that Respondent violated Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption by not complying with Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(2)].
48. At the time of the CEI, a 55-gallon container of waste alcohol, a 55-gallon container of waste acetone, a 20-gallon container of waste hydrofluoric acid, and four 5-gallon containers of waste acetone, methanol and/or alcohol were found in the TFR building 7 90-day or less storage area, and 52 containers ranging from 5 cubic centimeter syringes to 1,000 milliliter containers were found in the building number 8 90-day or less storage area, without being marked or labeled with the words "Hazardous Waste." In addition, at the time of the CEI, a 2,000-gallon equalization tank, a 500-gallon conical batch tank, a filter press, a 500-gallon evaporator day tank, an 800-gallon evaporator tank, and two evaporator towers/stacks were found in building 12 without being marked or labeled with the words "Hazardous Waste."
49. The EPA therefore alleges that Respondent violated Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption by not complying with Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(3)].
50. At the time of the CEI, 52 containers ranging from 5 cubic centimeter syringes to 1,000 milliliter containers were found in the building number 8 90-day or less storage area without sufficient aisle space.
51. The EPA therefore alleges that Respondent violated Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because

Respondent failed to meet a condition of the LQG Permit Exemption given in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(4)], by not complying with Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 265.35].

52. At the time of the CEI, a written waste analysis plan for hazardous waste treated in tanks had not been developed.
53. The EPA therefore alleges that Respondent violated Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption given in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(4)], by failing to comply with Fla. Admin. Code Ann. r. 62-730.183 [40 C.F.R. § 268.7(a)(5)].
54. At the time of the CEI, three 5-gallon containers of hazardous waste K40 slurry/rinse water accumulating in the batch mix room SAA were found not kept closed.
55. The EPA therefore alleges that Respondent violated Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the SAA Permit Exemption given in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(c)(1)(i)], by not complying with Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 265.173(a)].
56. At the time of the CEI, three 5-gallon containers of hazardous waste K40 slurry/rinse water accumulating in the batch mix room SAA were found not marked or labeled with the words "Hazardous Waste" or with other words that identified the contents of the containers.
57. The EPA therefore alleges that Respondent violated Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the SAA Permit Exemption by not complying with Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(c)(1)(ii)].

## V. TERMS OF AGREEMENT

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

58. 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.
59. Respondent neither admits nor denies the factual allegations and determinations set out in this CA/FO.
60. Respondent waives any right to contest the allegations and its right to appeal the proposed Final Order accompanying the Consent Agreement.
61. 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.



62. 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 EPA officials where the purpose of such discussion, memorandum, or communication is to persuade such official to accept and issue this CA/FO.
63. 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.
64. 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.
65. Respondent, by signing this CA/FO, certifies that Respondent is currently in compliance with RCRA and the authorized State hazardous waste program.
66. 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.
67. Each party will pay its own costs and attorneys' fees.

#### **VI. PAYMENT OF CIVIL PENALTY**

68. Respondent consents to the payment of a civil penalty in the amount of **FORTY-ONE THOUSAND ONE HUNDRED DOLLARS (\$41,100.00)**, which is to be paid within thirty (30) calendar days of the effective date of this CA/FO.
69. Payment 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 US  
**U.S. EPA Fines & Penalties**  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, Missouri 63101  
(314) 418-1028

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  
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

70. Respondent shall submit a copy of the payment to the following addresses:

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

And to:

Larry L. Lamberth, Chief  
South Section, RCRA & OPA Enforcement and Compliance Branch  
RCRA Division  
U.S. EPA - Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960

71. 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 30 calendar days after the effective date of this Consent Agreement. 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).

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

#### **VII. PARTIES BOUND**

- 73. 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.
- 74. 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.
- 75. 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.

#### **VIII. RESERVATION OF RIGHTS**

- 76. 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.
- 77. 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.
- 78. 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.

#### **IX. OTHER APPLICABLE LAWS**

79. 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.

#### **X. SERVICE OF DOCUMENTS**

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

Colleen Michuda  
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  
(404) 562-9685  
michuda.colleen@epa.gov

81. 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. Evan Slavitt  
Vice President for Business and Legal Affairs  
AVX Corporation  
801 17<sup>th</sup> Avenue South  
Myrtle Beach, South Carolina 29578-0867  
(843) 946-0624  
Evan.Slavitt@avx.com

#### **XI. SEVERABILITY**

82. 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.


#### **XII. 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.

**AGREED AND CONSENTED TO:**

**American Technical Ceramics (Florida), Inc.**

By:

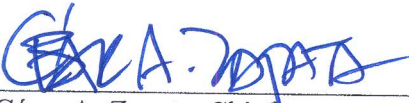
  
\_\_\_\_\_  
~~Mr. Evan Slavitt~~ **KURT CUMMINGS**  
Vice President for Business and Legal Affairs  
AVX Corporation  
801 17<sup>th</sup> Avenue South  
Myrtle Beach, South Carolina 29578-0867

Dated:

July 29 2013

**United States Environmental Protection Agency**

By:

  
\_\_\_\_\_  
César A. Zapata, Chief  
RCRA and OPA Enforcement and Compliance Branch  
RCRA Division

Dated:

8/7/13

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4

IN THE MATTER OF: ) DOCKET NO.: RCRA-04-2013-4007(b)  
)  
American Technical Ceramics (Florida), Inc.)  
2201 Corporate Square Boulevard ) Proceeding Under Section 3008(a) of the  
Jacksonville, Florida 32216 ) Resource Conservation and Recovery Act,  
EPA ID No.: FLD 039 677 810 ) 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 8 day of August, 2013.

BY: Susan B. Schub  
Susan B. Schub  
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 American Technical Ceramics (Florida), Inc., Docket Number: RCRA-04-2013-4007(b), and have served the parties listed below in the manner indicated:

Colleen Michuda  
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)

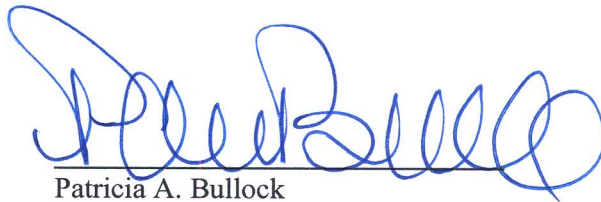
Quantindra Smith  
RCRA and OPA Enforcement and Compliance Branch  
RCRA Division  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960

(Via EPA's electronic mail)

Evan Slavitt  
Vice President for Business and Legal Affairs  
AVX Corporation  
801 17<sup>th</sup> Avenue South  
Myrtle Beach, South Carolina 29578-0867

(Via Certified Mail - Return Receipt Requested)

Date: 8-8-13



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