



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

SEP 19 2017

**CERTIFIED MAIL RETURN RECEIPT**

Jimmy F. Kirkland  
Attorney  
Womble, Carlyle, Sandridge and Rice  
271 17th Street, NW  
Suite 2400  
Atlanta, Georgia 30363-1017

Re: Southern States LLC, EPA ID # GAD080084361  
Consent Agreement and Final Order, Docket No. RCRA-04-2017-4011(b)

Dear Mr. Kirkland,

Enclosed, please find a copy of the executed Consent Agreement and Final Order (CA/FO) as filed with the Regional Hearing Clerk in the above-reference matter. Please note that payment of the civil penalty is due within thirty (30) days of the effective date of the CA/FO, which is the date the CA/FO is filed with the Regional Hearing Clerk.

Thank you for assistance in resolving this matter. If you have questions, please feel free to contact Paula Whiting at 404-562-9277 or by email at [whiting.paula@epa.gov](mailto:whiting.paula@epa.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "for Allen Fournier".

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

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4

IN THE MATTER OF: ) DOCKET NO.: RCRA-04-2017-4011(b)  
)  
Southern States LLC )  
30 Georgia Avenue ) Proceeding Under Section 3008(a) of the  
Hampton, Georgia 30228 ) Resource Conservation and Recovery Act,  
EPA ID No.: GAD080084361 ) 42 U.S.C. § 6928(a)  
)  
Respondent )  
\_\_\_\_\_ )

USEPA, REGION 4  
OFFICE OF REGIONAL  
COUNSEL  
2017 SEP 19 AM 7:40  
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 the Georgia Hazardous Waste Management Act (GHWMA), Ga. Code Ann. § 12-8-60 *et seq.* [Subtitle C of RCRA, 42 U.S.C. §§ 6921-6939g], and the regulations promulgated pursuant thereto and set forth at Georgia Hazardous Waste Management Rules (GHWMR), Ga. Comp. R. and Regs. 391-3-11.01 to 391-3-11.18 [Title 40 of the Code of Federal Regulations (C.F.R.), Parts 260 through 270, 273, & 279]. 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 12-8-66 of the GHWMA, Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925] and Ga. Comp. R. and Regs. 391-3-11.01 to 391-3-11.18 [40 C.F.R. Parts 260 through 270, 273, & 279].
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 Southern States LLC, a LLC Incorporated under the laws of Georgia. Respondent is the owner and operator of a facility that manufactures high voltage electrical switch gear for the power industry, located at 30 Georgia Avenue in Hampton, Georgia (the Facility). Respondent conducts full service machining, fabrication and assembly on-site for steel, copper and aluminum. Respondent also performs electroplating using tin and silver plating.

## III. PRELIMINARY STATEMENTS

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the State of Georgia (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 GHWMA, Ga. Code Ann. § 12-8-60 *et seq.* Subtitle C of RCRA and to Ga. Comp. R. and Regs. 391-3-11.01 to 391-3-11.18 [40 C.F.R. Parts 260 through 270, 273 and 279].
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. Georgia 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 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 12-8-64(1)(A) of the GHWMA, Ga. Code Ann. § 12-8-64(1)(A) [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 Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. Part 262].
12. Section 12-8-64(1)(A) of the GHWMA, Ga. Code Ann. § 12-8-64(1)(A) [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 Ga. Comp. R. and Regs. 391-3-11-.10(2) (permitted) and Ga. Comp. R.

and Regs. 391.3-11-.10(1) (interim status)] [40 C.F.R. Parts 264 (permitted) and 265 (interim status)].

13. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(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 Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.3], a solid waste is a “hazardous waste” if it meets any of the criteria set forth in Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.3(a)(2)] and is not otherwise excluded from regulation as a hazardous waste by Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.4(b)].
15. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. §§ 261.3(a)(2)(i) and 261.20], solid wastes that exhibit any of the characteristics identified in Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. §§ 261.21-24] are characteristic hazardous waste and are provided with the EPA Hazardous Waste Numbers D001 through D043.
16. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. §§ 261.20 and 261.21], a solid waste that exhibits the characteristic of ignitability is a hazardous waste and is identified with the EPA Hazardous Waste Number D001.
17. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [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.
18. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. §§ 261.20 and 261.23], a solid waste that exhibits the characteristic of reactivity is a hazardous waste and is identified with the EPA Hazardous Waste Number D003.
19. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [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 Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for barium is identified with the EPA Hazardous Waste Number D005.
20. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [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 Ga. Comp. R. and Regs. 391-3-11-.07(1) [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.
21. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [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 Ga. Comp. R. and Regs. 391-3-11-.07(1) [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.

22. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [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 Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for lead is identified with the EPA Hazardous Waste Number D008.
23. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [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 Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for silver is identified with the EPA Hazardous Waste Number D011.
24. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [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 Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. Part 261, Subpart D]. Listed hazardous wastes include the F-Listed wastes from nonspecific sources identified in Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.31].
25. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.02(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 Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. Part 261], or whose act first causes a hazardous waste to become subject to regulation.
26. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.02(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.”
27. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.02(1) [40 C.F.R. § 260.10], a “person” includes a limited liability corporation.
28. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.02(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.”
29. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.02(1) [40 C.F.R. § 260.10], “container” means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.
30. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.02(1) [40 C.F.R. § 260.10], “storage” means the holding of a hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.
31. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.02(1) [40 C.F.R. § 260.10], “Universal Waste” means any of the following hazardous wastes that are managed under the universal waste requirements of part 273 of this chapter:
  - (1) Batteries as described in §273.2 of this chapter;
  - (2) Pesticides as described in §273.3 of this chapter;

- (3) Mercury-containing equipment as described in §273.4 of this chapter; and
- (4) Lamps as described in §273.5 of this chapter.

- 32. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.02(1) [40 C.F.R. § 260.10], “Universal Waste Handler” means: (i) a generator (as defined in this section) of universal waste; or (ii) the owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates universal waste, and sends universal waste to another universal waste handler, to a destination facility, or to a foreign destination.
- 33. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [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 Section 12-8-66 of the GHWMA, Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], provided that the generator complies with the conditions listed in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)-(4)] (hereinafter referred to as the “LQG Permit Exemption”).
- 34. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(4)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [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.
- 35. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(4)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [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.
- 36. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(4)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.52(d)], and is a condition of the LQG Permit Exemption, a generator is required to list names, addresses, and phone numbers of all persons qualified to act as emergency coordinator.
- 37. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(4)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.53(b)], and is a condition of the LQG Permit Exemption, a generator is required to submit to all local police departments, hospitals, and state and local emergency response teams that may be called upon to provide emergency services.
- 38. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [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 Ga. Comp. R. and Regs. 391.3-11-.10(1), and.10(2) [40 C.F.R. Parts 264, 265, and 267] and the permit requirements of Ga. Comp. R. and Regs. 391-3-11-.11 [40 C.F.R. Part 270].

39. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.18 [40 C.F.R. § 273.9], a “Small Quantity Handler of Universal Waste” (SQHUW) 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 time.
40. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.18 [40 C.F.R. § 273.14(e)], a SQHUW must label or mark each lamp or container of lamps clearly with one of the following phrases: “Universal Waste-Lamp(s),” or “Waste Lamp(s),” or “Used Lamps.”
41. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.18 [40 C.F.R. § 273.15(a) and (c)], a SQHUW may accumulate universal waste no longer than one year and must be able to demonstrate the length of time that the universal waste has accumulated from the date that it became a waste or was received.

#### **IV. EPA ALLEGATIONS AND DETERMINATIONS**

42. Respondent is a “person” as defined in Ga. Comp. R. and Regs. 391-3-11-.02(1) [40 C.F.R. § 260.10].
43. Respondent is the “owner/operator” of a “facility” located at 30 Georgia Avenue in Hampton, Georgia, as those terms are defined in Ga. Comp. R. and Regs. 391-3-11-.02(1) [40 C.F.R. § 260.10].
44. Respondent is a “generator” of “hazardous waste” as those terms are defined in Ga. Comp. R. and Regs. 391-3-11-.02(1) [40 C.F.R. § 260.10] and Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.3]. Specifically, Respondent generates the hazardous wastes identified in paragraphs 16-24, above.
45. Respondent manufactures high voltage electrical switch gear for the power industry. The facility conducts machining, fabrication and assembly on-site for steel, copper and aluminum, and has an electroplating operation using tin and silver plating.
46. Respondent, as a result of its practices and operations at the Facility, is a LQG, as that term is defined in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)], at all times relevant to this CA/FO.
47. On February 9, 2017, the EPA and the Georgia Environmental Protection Department (Inspectors) conducted a compliance evaluation inspection (CEI) at Respondent’s facility. The EPA documented its findings in a Report mailed to Respondent, dated May 30, 2017.
48. During the CEI, the Inspectors observed that the following areas had releases of hazardous waste:
  - a. Electroplating Shop - wet PeelSeal Green, which contains toluene and is flammable when wet, was being allowed to drip to the floor and dry.
  - b. Machine Shop – in the second and third CNC areas, hazardous waste coolant was observed on the floor.
49. The EPA therefore alleges Respondent violated Section 12-8-66 of the GHWMA, Ga. Code Ann. § 12-8-66 [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 set forth in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(4)], by failing to maintain and operate the facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste in accordance with Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.31].

50. During the CEI, the Inspectors were unable to walk around, or view the labels on, the totes and drums of hazardous waste in the hazardous waste storage area (HWSA) and observed that the Respondent failed to maintain aisle space between the totes and drums in the HWSA.
51. The EPA therefore alleges Respondent violated Section 12-8-66 of the GHWMA, Ga. Code Ann. § 12-8-66 [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 set forth in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(4)], by not complying with the aisle space requirements of Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.35].
52. During the CEI, the Inspectors reviewed the Facility's contingency plan and observed that the contingency plan did not contain the following:
  - a. Documentation (i.e., green return receipt cards) that copies of the contingency plan were provided to the local emergency response agencies (i.e., fire, police, hospital); and
  - b. A current emergency contact list, including contact home addresses.
53. The EPA therefore alleges Respondent violated Section 12-8-66 of the GHWMA, Ga. Code Ann. § 12-8-66 [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 set forth in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(4)], by not complying with the contingency plan requirements of Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. §§ 265.52(d) and 265.53(b)].
54. During the CEI, the Inspectors observed that hazardous waste was being stored in excess of 90 days in the following areas:
  - a. Former Foundry - the collection tote dated November 7, 2016 had been stored for 95 days;
  - b. HWSA - an orange 5-gallon container of old brooms and pipes dated October 24, 2015 had been stored 474 days.
  - c. HWSA - Three 55-gallon drums of old motors for filters dated October 23, 2015; December 1, 2015 and February 8, 2014. The oldest drum had been stored 1,091 days.
55. The EPA therefore alleges Respondent violated Section 12-8-66 of the GHWMA, Ga. Code Ann. § 12-8-66 [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 Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(b)].
56. During the CEI, the Inspectors observed two eight-foot fiber board containers of spent fluorescent lamps that were not labeled nor dated with the start date of accumulation.



57. The EPA therefore alleges that Respondent violated Ga. Comp. R. and Regs. 391-3-11-.18 [40 C.F.R. § 273.14(e)], by failing to label or mark each lamp or container of lamps clearly with one of the following phrases: “Universal Waste-Lamp(s),” or “Waste Lamp(s),” or “Used Lamps.”
58. The EPA therefore alleges that Respondent violated Ga. Comp. R. and Regs. 391-3-11-.18 [40 C.F.R. § 273.15(a) and (c)], by failing to demonstrate the length of time that the facility’s universal waste had been accumulated from the date that the universal waste became a waste or was received.

## V. TERMS OF AGREEMENT

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

59. 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.
60. Respondent neither admits nor denies the factual allegations and determinations set out in this CA/FO.
61. Respondent waives any right to contest the allegations and its right to appeal the proposed Final Order accompanying the Consent Agreement.
62. 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.*
63. 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.
64. 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.
65. 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.
66. Respondent, by signing this CA/FO, certifies that Respondent is currently in compliance with RCRA and the authorized State hazardous waste program.
67. 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.
68. Each party will pay its own costs and attorneys’ fees.

## VI. PAYMENT OF CIVIL PENALTY

69. Respondent consents to the payment of a civil penalty in the amount of TWENTY-NINE THOUSAND DOLLARS (\$29,000.00), which is to be paid within thirty (30) calendar days of the effective date of this CA/FO.
70. 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

71. 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:

Paula A. Whiting  
Environmental Engineer  
Hazardous Waste Compliance and Enforcement Section  
Enforcement and Compliance Branch  
Resource Conservation and Restoration Division  
US EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8909

72. 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 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).

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

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

74. 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.
75. 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.
76. 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**

77. 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.
78. 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.
79. 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**

80. 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**

81. 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:

Joan Redleaf Durbin  
Associate Regional Counsel  
Office of RCRA/CERCLA Legal Support  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960  
(404) 562-9544

82. 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:

Jimmy F. Kirkland, Esq.  
Womble, Carlyle, Sandridge and Rice  
271 17<sup>th</sup> Street, NW  
Suite 2400  
Atlanta, Georgia 30363-1017  
(404) 879-2460

#### XI. SEVERABILITY


83. 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

84. 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:

##### Southern States LLC

By:   
Brian Berner  
Vice President

Dated: 9/7/17

##### United States Environmental Protection Agency

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

Dated: 9/15/17

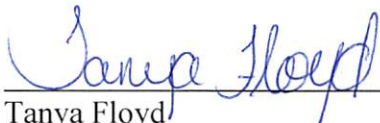
**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4**

IN THE MATTER OF:	)	DOCKET NO.: RCRA-04-2017-4011(b)
	)	
Southern States LLC	)	
30 Georgia Avenue	)	Proceeding Under Section 3008(a) of the
Hampton, Georgia 30228	)	Resource Conservation and Recovery Act,
EPA ID No.: GAD080084361	)	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 15<sup>th</sup> day of September 2017.

BY:   
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 Southern States LLC, Docket Number: RCRA-04-2017-4011(b), and have served the parties listed below in the manner indicated:

Joan Redleaf Durbin  
Associate Regional Counsel  
Office of RCRA/CERCLA 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  
Enforcement and Compliance Branch  
RCR Division  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960

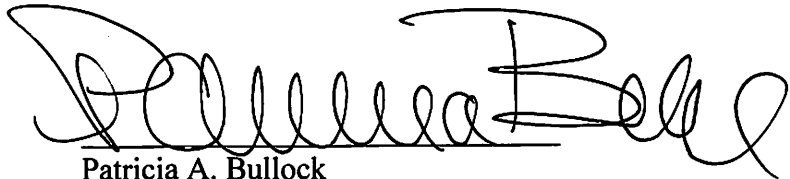
(Via EPA's electronic mail)

Jimmy F. Kirkland, Esq.  
Womble, Carlyle, Sandridge and Rice  
271 17<sup>th</sup> Street, NW  
Suite 2400  
Atlanta, Georgia 30363-1017

(Via Certified Mail - Return Receipt Requested)

Date:

9-19-17



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