



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](mailto: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-04-2018-4002(b)
	)	
Palmetto Plating Co., Inc.	)	
115 Folger Avenue	)	Proceeding Under Section 3008(a) of the
Easley, South Carolina 29641	)	Resource Conservation and Recovery Act,
EPA ID No.: SCD 982 091 514	)	42 U.S.C. § 6928(a)
	)	
Respondent	)	
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**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 [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 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 [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) 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 a black oxide conversion facility located at 115 Folger Avenue, Easley, South Carolina (the "Folger Avenue 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.
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)], require 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. 61-79.260.10 [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.”
17. 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.
18. 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.”
19. Pursuant to 25 S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], a “person” includes a corporation.

20. 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.”
21. 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)(1)(i) [40 C.F.R. § 262.34(a)(1)(i)], which incorporates 25 S.C. Code Ann. Regs. 61-79.265.171 [40 C.F.R. § 265.171], and is a condition of the LQG Permit Exemption, if a container holding hazardous waste is not in good condition, or if it begins to leak, the generator must transfer the hazardous waste from this container to a container that is in good condition, or manage the waste in some other way that complies with the requirements;
  - b. 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;
  - c. 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”;
  - d. Pursuant to 25 S.C. Code Ann. Regs. 61-79.262.34(a)(4) [40 CFR § 262.34(a)(4)], which incorporates 25 S.C. Code Ann. Regs. 61-79.265.16 [40 CFR § 265.16], and is a condition of LQG Permit Exemption, facility personnel are required to successfully complete a training program designed to ensure compliance with hazardous waste management regulations within six months after the effective date of these regulations and must take part in an annual review of the initial training;
  - e. 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;
  - f. 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;

- g. 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. 61-79.265.52 [40 C.F.R. § 265.52], and is a condition of the LQG Permit Exemption, a generator is required to have a contingency plan.
22. 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].

#### IV. EPA ALLEGATIONS AND DETERMINATIONS

23. Respondent is a “person” as defined in 25 S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10].
24. Respondent is the “owner/operator” of a “facility” located at 115 Folger Avenue, 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].
25. 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].
26. Hazardous wastes at the Folger Avenue Facility are generated as a result of Respondent’s black oxide conversion operations, and include hazardous wastes having the characteristics of corrosivity (D002), toxicity for cadmium (D006) and toxicity for chromium (D007).
27. 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 Folger Avenue Facility. The findings of the CEIs were documented in reports mailed to Respondent, dated April 22, 2014, and March 23, 2016.
28. Based on the volume of D002, D006 and D007 hazardous waste observed by the EPA at the Folger Avenue Facility on December 19, 2013, Respondent was LQG of hazardous wastes for purposes of the December 19, 2013, CEI.
29. During the December 19, 2013, CEI 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)], for hazardous wastes generated in the former plating process area at the Folger Avenue Facility:
- a. The EPA observed that Respondent had failed to transfer hazardous waste from a leaking container to a container that is in good condition;

- b. The EPA observed that Respondent had failed to mark several containers accumulating D002, D006, and D007 hazardous waste with the date upon which each period of accumulation began;
  - c. The EPA observed that Respondent had failed to mark several containers accumulating D002, D006, and D007 hazardous waste with the EPA Hazardous Waste Number(s) and the words: "Hazardous Waste – Federal laws prohibit improper disposal";
  - d. The EPA observed that Respondent had failed to train all personnel at the Folger Avenue Facility with hazardous waste management responsibilities;
  - e. The EPA observed that Respondent had failed to maintain and operate the Folger Avenue Facility in a manner which minimizes the possibility of release of hazardous waste or hazardous waste constituents by storing containers of D002, D006, and D007 hazardous waste outside of the secondary containment area, allowing unknown liquids to accumulate on the floor in the process area, and allowing rainwater to enter the building through that holes and gaps in the structure;
  - f. The EPA observed that Respondent had failed to maintain the required aisle space for D002, D006, and D007 hazardous waste managed at the Folger Avenue Facility; and
  - g. The EPA observed that Respondent had failed to prepare a contingency plan for the Folger Avenue Facility.
30. 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)(1)(i) [40 C.F.R. § 262.34(a)(1)(i)] by not complying with the hazardous waste container management requirements of 25 S.C. Code Ann. Regs. 61-79.265.171 [40 C.F.R. § 265.171].
31. 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 its containers.
32. 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 its containers.
33. 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 personnel training requirements of 25 S.C. Code Ann. Regs. 61-79.265.16 [40 C.F.R. § 265.16].

34. 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 facility maintenance and operation requirements of 25 S.C. Code Ann. Regs. 61-79.265.31 [40 C.F.R. § 265.31].
35. 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].
36. 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 hazardous waste contingency plan requirements of 25 S.C. Code Ann. Regs. 61-79.265.52 [40 C.F.R. § 265.52].
37. During the December 19, 2013, CEI, the EPA observed that Respondent had stored several containers of D002, D006, D007 hazardous waste at the Folger Avenue Facility for approximately 464 days.
38. 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)].

## V. TERMS OF AGREEMENT

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

39. 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.
40. Respondent neither admits nor denies the factual allegations and determinations set out in this CA/FO.
41. Respondent waives any right to contest the allegations and its right to appeal the proposed Final Order accompanying the Consent Agreement.
42. 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.*



43. 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.
44. 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.
45. 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.
46. 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.
47. 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.
48. Each party will pay its own costs and attorneys' fees.

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

49. 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.
50. 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.
51. 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  
**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

52. 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

53. 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 60 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).
54. Penalties paid pursuant to this CA/FO are not deductible for federal purposes under 26 U.S.C. § 162(f).

## VII. PARTIES BOUND

55. 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.
56. 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.
57. 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

58. 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.

59. 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.
60. 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**

61. 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**

62. 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/CERCLA Legal Support  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960  
(404) 562-8530

63. 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

#### **XI. SEVERABILITY**

64. 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**

65. 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-04-2018-4002(b):*


**AGREED AND CONSENTED TO:**

**For: Palmetto Plating Co., Inc., 115 Folger Avenue, 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-04-2018-4002(b)
	)	
Palmetto Plating Co., Inc.	)	
115 Folger Avenue	)	Proceeding Under Section 3008(a) of the
Easley, South Carolina 29641	)	Resource Conservation and Recovery Act,
EPA ID No.: SCR 982 091 514	)	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 31<sup>st</sup> 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-04-2018-4002(b), and have served the parties listed below in the manner indicated:

Mr. Roberto Busó  
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)

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