

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)
)
Stevens Aviation, Inc.)
600 Delaware Street)
Greenville, South Carolina)
EPA ID No.: SCR 000 007 294)
)
Respondent)
_____)

DOCKET NO.: RCRA-04-2016-0000)
)
Proceeding Under Section 3008(a) of)
Resource Conservation and Recovery Act,)
42 U.S.C. § 6928(a))

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HEARING CLERK
USEPA REGION 4
OFFICE OF REGIONAL
COUNSEL

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. §§ 6921-6939f], and the regulations promulgated pursuant thereto and set forth at the South Carolina Hazardous Waste Management Regulations (SCHWMR) 25 S.C. Code Ann. Regs. 61-79.260-270 and 61-79.273 [Title 40 of the Code of Federal Regulations (C.F.R.), Parts 260 through 270, 273, & 279]. This action seeks imposition of civil penalties pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for violations of Section 44-56-60(a)(2) and (b) of the SCHWMA, SC. Code Ann. § 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925] and 25 S.C. Code Ann. Regs. 61-79.260-270 and 61-79.273 [40 C.F.R. Parts 260 through 270 and 273].
2. The *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, which govern this action and are promulgated at 40 C.F.R. Part 22, provide that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order (CA/FO). 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).
3. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to settle this action. Accordingly, before any testimony has been taken upon the pleadings and without any admission of violation or adjudication of any issue of fact or law and in accordance with 40 C.F.R. § 22.13(b), Complainant and Respondent have agreed to the execution of this CA/FO, and Respondent hereby agrees to comply with the terms of this CA/FO.

II. THE PARTIES

4. Complainant is the Director, 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, Stevens Aviation, Inc., is a Delaware corporation authorized to transact business in South Carolina and is the owner and operator of a full service Fixed Base Operator (FBO) facility at the Greenville/Spartanburg Airport offering maintenance, avionics, completions, sales and FBO services located at 600 Delaware Street, Greenville, South Carolina (the Facility).

III. PRELIMINARY STATEMENTS

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the State of South Carolina (State) has received final authorization to carry out a hazardous waste program in lieu of the federal program set forth in RCRA. The requirements of the authorized State program are found at SCHWMA, S.C. Code Ann. § 44-56-10 *et seq.* and SCHWMR 25 S.C. Code Ann. Regs. 61-79.260-270 and 61-79.273.
7. Pursuant to Section 3006(g) of RCRA, 42 U.S.C. § 6926(g), the requirements established by the Hazardous and Solid Waste Amendments of 1984 (HSWA), Pub. L. 98-616, are immediately effective in all states regardless of their authorization status and are implemented by the EPA until a state is granted final authorization with respect to those requirements. South Carolina 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. Sections 44-56-30 and 44-56-35 of the SCHWMA, S.C. Code Ann. §§ 44-56-30 and 44-56-35 [Section 3002(a) of RCRA, 42 U.S.C. § 6922(a)], requires the promulgation of standards applicable to generators of hazardous waste. The implementing regulations for

these standards are found at 25 S.C. Code Ann. Regs. 61-79 Part 262. [40 C.F.R. Part 262].

12. Section 44-56-60(a)(2) and (b) of the SCHWMA, S.C. Code Ann. § 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925], sets forth the requirement that a facility treating, storing, or disposing of hazardous waste must have a permit or interim status. The implementing regulations for this requirement are found at 25 S.C. Code Ann. Regs. 61-79 Part 264 (permitted) and 25 S.C. Code Ann. Regs. 61-79 Part 265 (interim status) [40 C.F.R. Parts 264 (permitted) and 265 (interim status)].
13. Pursuant to 25 S.C. Code Ann. Regs. 61-79.261.2 [40 C.F.R. § 261.2], a “*solid waste*” is any discarded material that is not otherwise excluded from the regulations. A discarded material includes any material that is abandoned by being stored in lieu of being disposed.
14. Pursuant to 25 S.C. Code Ann. Regs. 61-79.261.3 [40 C.F.R. § 261.3], a solid waste is a “*hazardous waste*” if it meets any of the criteria set forth in 25 S.C. Code Ann. Regs. 61-79.261.3(a)(2) [40 C.F.R. § 261.3(a)(2)] and is not otherwise excluded from regulation as a hazardous waste by 25 S.C. Code Ann. Regs. 61-79.261.4(b) [40 C.F.R. § 261.4(b)].
15. Pursuant to 25 S.C. Code Ann. Regs. 61-79.261.3(a)(2)(i) and 61-79.261.20 [40 C.F.R. §§ 261.3(a)(2)(i) and 261.20], solid wastes that exhibit any of the characteristics identified in 25 S.C. Code Ann. Regs. 61-79.261.21-24 [40 C.F.R. §§ 261.21-24] are characteristic hazardous waste and are provided with the EPA Hazardous Waste Numbers D001 through D043.
16. Pursuant to 25 S.C. Code Ann. Regs. 61-79.261.3(a)(2)(i) and 61-79.261.21 [40 C.F.R. §§ 261.3(a)(2)(i) and 261.21], a solid waste that exhibits the characteristic of ignitability is a characteristic hazardous waste and is provided with the EPA Hazardous Waste Number D001.
17. 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.
18. 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.

19. Pursuant to 25 S.C. Code Ann. Regs. 61-79.261.3(a)(2)(ii) and 61-79.261.30 [40 C.F.R. §§ 261.3(a)(2)(ii) and 261.30], a solid waste is a "*listed hazardous waste*" if it is listed in 25 S.C. Code Ann. Regs. 61-79 Part 261, Subpart D [40 C.F.R. Part 261, Subpart D] and is not otherwise excluded by 25 S.C. Code Ann. Regs. 61-79.260.20 or 61-79.260.22 [40 C.F.R. § 260.20 or 40 C.F.R. § 260.22].
20. Pursuant to 25 S.C. Code Ann. Regs. 61-79 Part 261.31(a) [40 C.F.R. § 261.31(a)], specific spent halogenated solvents, mixtures and/or blends containing ten percent or more by volume of such solvents, and still bottoms from the recovery of such spent solvents and mixtures/blends, are identified as an F002 listed hazardous waste from non-specific sources.
21. Pursuant to 25 S.C. Code Ann. Regs. 61-79 Part 261.31(a) [40 C.F.R. § 261.31(a)], specific spent non-halogenated solvents, mixtures and/or blends containing ten percent or more by volume of such solvents, and still bottoms from the recovery of such spent solvents and mixtures/blends, are identified as an F005 listed hazardous waste from non-specific sources.
22. Pursuant to 25 S.C. Code Ann. Regs. 61-79 Part 261.31(a) [40 C.F.R. § 261.31(a)], wastewater treatment sludges from the chemical conversion coating of aluminum, except from zirconium phosphating in aluminum can washing when such phosphating is an exclusive conversion coating process, are identified as an F019 listed hazardous waste from non-specific sources.
23. 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.
24. 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."
25. Pursuant to 25 S.C. Code Ann. Regs. 61-79.260.10 [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, State, municipality, commission, political subdivision of a State, or any interstate body.
26. 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."
27. 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 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*”).

28. Pursuant to 25 S.C. Code Ann. Regs. 61-79.262.34(c)(1) [40 C.F.R. § 262.34(c)(1)], a generator may accumulate as much as 55 gallons of hazardous waste in containers at or near the point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or without interim status, as required by 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 Satellite Accumulation Area (SAA) conditions listed in 25 S.C. Code Ann. Regs. 61-79.262.34(c)(1)(i)-(ii) [40 C.F.R. § 262.34(c)(1)(i)-(ii)], (hereinafter referred to as the “*SAA Permit Exemption*”).
29. Pursuant to 25 S.C. Code Ann. Regs. 61-79.262.34(c)(1)(i) [40 C.F.R. § 262.34(c)(1)(i)], which incorporates 25 S.C. Code Ann. Regs. 61-79.265.171 [40 C.F.R. § 265.171] as a condition of the SAA 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.
30. Pursuant to 25 S.C. Code Ann. Regs. 61-79.262.34(c)(1)(i) [40 C.F.R. § 262.34(c)(1)(i)], which incorporates 25 S.C. Code Ann. Regs. 61-79.265.173 [40 C.F.R. § 265.173(a)] as 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.
31. Pursuant to 25 S.C. Code Ann. Regs. 61-79.262.34(c)(1)(ii) [40 C.F.R. § 262.34(c)(1)(ii)], which is a condition of the SAA Permit Exemption, a generator is required to mark SAA containers either with the words “Hazardous Waste” or with other words that identify the contents of the containers.
32. Pursuant to 25 S.C. Code Ann. Regs. 61-79.262.34(c)(2) [40 C.F.R. § 262.34(c)(2)], a generator who accumulates hazardous waste in excess of 55 gallons at or near any point of generation must, with respect to that amount of excess waste, comply within three days with paragraph (a) of 25 S.C. Code Ann. Regs. 61-79.262.34 [40 C.F.R. § 262.34] or other applicable provisions. During the three day period the generator must continue to comply with paragraphs (c)(1)(i) and (ii) of 25 S.C. Code Ann. Regs. 61-79.262.34 [40 C.F.R. § 262.34]. The generator must mark the container holding the excess accumulation of hazardous waste with the date the excess amount began accumulating.
33. Pursuant to 25 S.C. Code Ann. Regs. 61-79.273.9 [40 C.F.R. § 273.9], a “*Small Quantity Handler of Universal Waste*” (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.

34. Pursuant to 25 S.C. Code Ann. Regs. 61-79.273.13(d)(1) [40 C.F.R. § 273.13(d)(1)], a SQHUW must manage lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment.
35. Pursuant to 25 S.C. Code Ann. Regs. 61-79.273.14(e) [40 C.F.R. § 273.14(e)], a SQHUW must label or mark each lamp or container of such lamps clearly with one of the following phrases: "Universal Waste – Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)".
36. Pursuant to 25 S.C. Code Ann. Regs. 61-79.262.11 [40 C.F.R. § 262.11], a person who generates a solid waste, as defined in 25 S.C. Code Ann. Regs. 61-79.261.2 [40 C.F.R. § 261.2], must accurately determine if that waste is a hazardous waste following methods articulated in 25 S.C. Code Ann. Regs. 61-79.262.11 [40 C.F.R. § 262.11].
37. 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. 61-79.265.16(d) [40 C.F.R. Part 265.16(d)] as a condition of the LQG Permit Exemption, the generator must maintain the following documents and records at the facility: the job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job; a written job description for each position related to hazardous waste management; a written description of the type and amount of both introductory and continuing training that will be given to each person filling a hazardous waste management position; and records that document that the training or job experience required has been given to, and completed by, facility personnel.

IV. EPA ALLEGATIONS AND DETERMINATIONS

38. Respondent is a "person" as defined in 25 S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10].
39. Respondent is the "owner/operator" of a "facility" located in Greenville, South Carolina, as those terms are defined in 25 S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10].
40. 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].
41. Respondent is a Fixed Base Operator (FBO) at the Greenville/Spartanburg Airport; it operates a full service facility offering maintenance, avionics, completions, sales and FBO services. The Facility operates under the NAICS code 488119 for "Other Airport Operations."
42. The Facility is a large quantity generator (LQG) of hazardous waste as well as a small quantity handler of universal waste (SQHUW). Hazardous wastes managed at the Facility are primarily generated from aircraft stripping and painting activities, while universal

hazardous wastes managed at the Facility include compact fluorescent and metal halide universal hazardous waste bulbs.

43. On April 2, 2015, the EPA and South Carolina Department of Health and Environmental Control (SC DHEC) conducted a RCRA compliance evaluation inspection (CEI) at the Facility. The findings of the CEI were documented in a Report the EPA mailed to Respondent, dated June 15, 2015.
44. During the April 2, 2015 CEI, the inspectors observed that a 55-gallon drum, having already become so severely rusted that openings were visible along the rim when the drum ring was fastened, was positioned beneath the wastewater treatment system filter press and was being used to accumulate a D006/D007 characteristic, and F019 listed, hazardous waste sludge.
45. The EPA therefore alleges Respondent violated 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] for storing hazardous waste without a permit or interim status because Respondent, having allowed a D006/D007 characteristic, and F019 listed, hazardous waste to remain in a container that was not in good condition, failed to meet a condition of the SAA Permit Exemption given in 25 S.C. Code Ann. Regs. 61-79.262.34(c)(1)(i) [40 C.F.R. § 262.34(c)(1)(i)] by not complying with 25 S.C. Code Ann. Regs. 61-79.265.171 [40 C.F.R. § 265.171].
46. The EPA therefore further alleges Respondent violated 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] for storing hazardous waste without a permit or interim status because Respondent, having allowed a container of a D006/D007 characteristic, and F019 listed, hazardous waste to remain open during storage, failed to meet a condition of the SAA Permit Exemption given in 25 S.C. Code Ann. Regs. 61-79.262.34(c)(1)(i) [40 C.F.R. § 262.34(c)(1)(i)] by not complying with 25 S.C. Code Ann. Regs. 61-79.265.173(a) [40 C.F.R. § 265.173(a)].
47. During the April 2, 2015 CEI, the inspectors observed that D006/D007 characteristic, and F019 listed, hazardous waste sludge, having been generated by operation of the wastewater treatment system filter press, was being stored in a 55-gallon drum, having neither labels nor an accumulation start date, that had not been relocated from the wastewater treatment system room to the Facility's less-than 90-day hazardous waste storage area.
48. The EPA therefore alleges Respondent violated 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] for storing hazardous waste without a permit or interim status because Respondent, by failing to mark its containers with the words "Hazardous Waste" or other similar words, failed to meet a condition of the SAA Permit Exemption given in 25 S.C. Code Ann. Regs. 61-79.262.34(c)(1)(ii) [40 C.F.R. § 262.34(c)(1)(ii)].

49. The EPA therefore further alleges Respondent violated 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] for storing hazardous waste without a permit or interim status by failing to mark the accumulation start date upon the 55-gallon drum containing an F019 listed hazardous waste awaiting relocation from the SAA to the Facility's less-than 90-day storage area in violation of 25 S.C. Code Ann. Regs. 61-79.262.34(c)(2) [40 C.F.R. § 262.34(c)(2)].
50. During the April 2, 2015 CEI, the inspectors observed that an assortment of compact fluorescent and metal halide universal waste lamps had been accumulated in the corner of the less than 90-day hazardous waste storage area near the door. Some of these accumulated lamps were being stored in cardboard boxes, although others were not; most but not all of these cardboard boxes were labeled, while some but not all were dated.
51. The EPA therefore alleges Respondent violated 25 S.C. Code Ann. Regs. 61-79.273.13(d)(1) [40 C.F.R. § 273.13(d)(1)] by failing to contain any lamp in closed containers or packages that are structurally sound, adequate to prevent breakage, compatible with the contents of the lamps, and which lack evidence of leakage, spillage, or damage that could cause leakage under reasonable foreseeable conditions.
52. The EPA therefore further alleges Respondent violated 25 S.C. Code Ann. Regs. 61-79.273.14(e) [40 C.F.R. § 273.14(e)] by failing to label or clearly mark each lamp or container or package containing such lamp with one of the following phrases: "Universal Waste – Lamp(s)," or "Waste Lamp(s)," or: "Used Lamp(s)".
53. During the April 2, 2015 CEI, the inspectors were able to learn that aircraft painting bay air filters are changed out based on pressure drop readings through the filters, and that while waste air *intake* filters are managed and disposed of as solid wastes, waste *exhaust* air filters are managed and disposed of as hazardous wastes, having EPA hazardous waste codes D001, D006, D007, F002, and F005. Further, the inspectors observed that hazardous waste aircraft painting bay *exhaust* air filters generated at the aircraft painting area were accumulating in a Gaylord box inside stripping Bay 2.
54. The EPA therefore alleges Respondent violated 25 S.C. Code Ann. Regs. 61-79.262.34(c)(1) [40 C.F.R. § 262.34(c)(1)] by accumulating hazardous waste *exhaust* air filters, having EPA hazardous waste codes D001, D006, D007, F002, and F005, in an area which was not at or near their point of generation.
55. During the April 2, 2015 CEI, the inspectors observed that the Facility's paint stripping process included the application of an Alodine® solution, which involves the chemical conversion coating of aluminum, and that the dried filter cake sludge produced by the Facility's wastewater treatment system had been identified by

Respondent as a characteristic (D006/D007) hazardous waste, but not as a listed (F019) hazardous waste.

56. The EPA therefore alleges Respondent violated 25 S.C. Code Ann. Regs. 61-79.262.11 [40 C.F.R. § 262.11] by failing to accurately determine that a solid waste is a listed hazardous waste following methods articulated in 25 S.C. Code Ann. Regs. 61-79.262.11 [40 C.F.R. § 262.11].
57. During the April 2, 2015 CEI, Respondent was unable to provide a written job description for each position related to hazardous waste management, although Respondent was able to provide hazardous waste training records to show that hazardous waste management employees were current on their required hazardous waste management training.
58. The EPA therefore alleges Respondent violated 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] for storing hazardous waste without a permit or interim status because Respondent, having not maintained the requisite documents and records at the Facility, failed to meet a condition of the Large Quantity Generator Permit Exemption given 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 25 S.C. Code Ann. Regs. 61-79.265.16(d) [40 C.F.R. § 265.16(d)].

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 **FOUR THOUSAND ONE HUNDRED DOLLARS (\$4,100.00)**, plus interest of 1.00% per annum, payable as follows.
 - a. The civil penalty will be paid in four equal installments in order to complete payment of the entire civil penalty including interest. Including the civil penalty and interest, the total amount that will be paid upon completion of all payments will be **FOUR THOUSAND ONE HUNDRED FIFTEEN DOLLARS AND THIRTY EIGHT CENTS (\$4,115.38)**. The first payment is due within thirty (30) days of the effective date of this CA/FO, which is upon its filing with the Regional Hearing Clerk. Respondent's subsequent payments shall thereafter be due in 90-day intervals from said effective date.
 - b. Respondent shall make payments in accordance with the following schedule:

Payment Number	Payment shall be made <i>no later than</i>	Principal Amount	Interest Amount	Total Payment Amount
1	Thirty (30) calendar days following the effective date of this CA/FO.	U.S. \$1,028.84	U.S. \$ 0.00	U.S. \$1,028.84
2	One hundred ten (110) calendar days following the	U.S. \$1,021.16	U.S. \$ 7.68	U.S. \$1,028.84

	effective date of this CA/FO.			
3	Two hundred (200) calendar days following the effective date of this CA/FO.	U.S. \$1,023.71	U.S. \$ 5.13	U.S. \$1,028.84
4	Two hundred ninety (290) calendar days following the effective date of this CA/FO.	U.S. \$1,026.29	U.S. \$ 2.57	U.S. \$1,028.84
TOTAL:		U.S. \$4,100.00	U.S. \$ 15.38	U.S. \$4,115.36

- c. If Respondent fails to make one of the installment payments in accordance with the schedule set forth above, the entire unpaid balance of the penalty and all accrued interest shall become due immediately upon such failure, and Respondent shall immediately pay the entire remaining principal balance of the civil penalty along with any interest that has accrued up to the time of such payment. In addition, Respondent shall be liable for and shall pay administrative handling charges and late payment penalty charges as described below in the event of any such failure or default.
- d. Further, if Respondent fails to pay the installment payments in accordance with the schedule set forth above, EPA may refer the debt to a collection agency, a credit reporting agency, or to the Department of Justice for filing of a collection action in the appropriate United States District Court. In any such collection action, the validity, the amount, and appropriateness of the assessed penalty and of this CA/FO shall not be subject to review.
- e. Notwithstanding Respondent's agreement to pay the assessed civil penalty in accordance with the installment schedule set forth above, Respondent may pay the entire civil penalty of **FOUR THOUSAND ONE HUNDRED DOLLARS (\$4,100.00)**, within thirty (30) calendar days of the effective date of this CA/FO and, thereby, avoid the payment of interest pursuant to 40 C.F.R. § 13.11(a). In addition, Respondent may, at any time after commencement of payments under the installment schedule, elect to pay the entire principal balance remaining, together with interest accrued up to the date of such full payment.
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

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

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 EPA in this matter and who is authorized to receive service for EPA in this proceeding:

Gregory D. Luetscher
Associate Regional Counsel
Office of RCRA/CERCLA Legal Support
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
(404) 562-9677
Luetscher.greg@epa.gov

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:

David Crowder
General Manager
Stevens Aviation, Inc.
600 Delaware Street
Greenville, South Carolina 29605

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.

In The Matter of Stevens Aviation, Inc., Docket No. RCRA-04-2016-4000(b):

AGREED AND CONSENTED TO:

Stevens Aviation, Inc.

By:



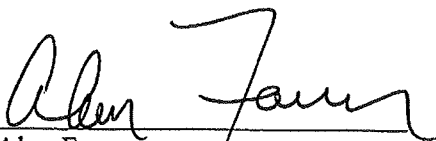
Mr. Neaf McGrial
Chief Financial Officer

Dated:

2/4/16

United States Environmental Protection Agency

By:



G. Alan Farmer
Director, Resource Conservation and Recovery Division

Dated:

2/19/16

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

IN THE MATTER OF:) DOCKET NO.: RCRA-04-2016-4000(b)
)
Stevens Aviation, Inc.)
600 Delaware Street) Proceeding Under Section 3008(a) of the
Greenville, South Carolina) Resource Conservation and Recovery Act,
EPA ID No.: SCR 000 007 294) 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 25th day of February, 2016.

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 Steven's Aviation, Inc.*, *Docket Number: RCRA-04-2016-4000(b)*, and have served the parties listed below in the manner indicated:

Gregory D. Luetscher
Associate Regional Counsel
Office of RCRA/CERCLA Legal Support
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

(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

(Via EPA's electronic mail)

David Crowder
General Manager
Stevens Aviation, Inc.
600 Delaware Street
Greenville, South Carolina 29605

(Via Certified Mail - Return Receipt Requested)

Date: 2-25-16



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