

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

This form was originated by: A.J. D'Angelo

Name of Contact person

9/21/2009
Date

in the Office of Regional Counsel (3RC30)

Office

at (215) 814-2480

Phone number

Non-SF Jud. Order/Consent
Decree. DOJ COLLECTS

Administrative Order/
Consent Agreement
FMD COLLECTS PAYMENT

SF Jud. Order/Consent
Decree. FMD COLLECTS

This is an original debt

This is a modification

Name of Company making payment: Sequa Coatings, LLC

The Total Dollar Amount of Receivable: Thirty One Thousand Seven Hundred and Fifty Dollars
(\$31,750.00)

(If in installments, attach schedule of amounts and respective due dates)

The Case Docket Number RCRA-03-2009-0262

The Site-Specific Superfund Acct. Number N/A

The Designated Regional/HQ Program Office Office of Land Enforcement (3LC70)

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

The IFMS Accounts Receivable Control Number _____

If you have any questions call:

Name of Contact

Date

in the Financial Management Office, phone number: _____

JUDICIAL ORDERS: Copies of this form with an attached copy of the front page of the final judicial order should be mailed to:

1. Rosemarie Pacheco
Environmental Enforcement Section
Lands Division, Room 130044
1425 New York Avenue, N.W.
Washington, D.C. 20005

2. Originating Office (ORC)
3. Designated Program Office

ADMINISTRATIVE ORDERS: Copies of this form with an attached copy of the front page of the administrative order should be sent to:

1. Originating Office
3. Regional Hearing Clerk

2. Designated Program Office

11-13-09 10:32

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103**

| | | |
|---|---|-------------------------------------|
| In Re: |) | |
| |) | |
| Sequa Coatings, LLC |) | Docket No. RCRA-03-2009-0262 |
| 200 Park Avenue |) | |
| New York, New York 10166, |) | |
| |) | |
| RESPONDENT. |) | Proceeding Under Section |
| |) | 3008(a) and (g) of the |
| Precoat Metals |) | Resource Conservation and |
| 6754 Santa Barbara Court |) | Recovery Act, as amended, |
| Elkridge, Maryland 21075 |) | 42 U.S.C. § 6928(a) and (g) |
| EPA Facility I.D. # MDD069380657 |) | |
| |) | |
| FACILITY. |) | |

11-13-09 10:32

CONSENT AGREEMENT

I. PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III ("Complainant"), and Sequa Coatings, LLC (or "Respondent"), pursuant to Section 3008(a) and (g) of the Solid Waste Disposal Act, commonly known as Resource Conservation and Recovery Act of 1976, as amended by *inter alia*, the Hazardous and Solid Waste Amendments of 1984 (collectively referred to hereinafter as "RCRA"), 42 U.S.C. § 6928(a) and (g), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("*Consolidated Rules of Practice*"), 40 C.F.R. Part 22, including, specifically, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).
2. The *Consolidated Rules of Practice*, at 40 C.F.R. § 22.13(b), provide, in pertinent part, that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding simultaneously may be commenced and concluded by the issuance of a consent agreement and final order pursuant to 40 C.F.R. § 22.18(b)(2) and (3). Pursuant thereto, this Consent Agreement ("CA") and the accompanying Final Order ("FO", collectively referred to herein as the "CAFO") simultaneously commences and concludes this administrative proceeding against Respondent.

3. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), and 40 C.F.R. Part 271, Subpart A, the State of Maryland has been granted final authorization to administer its hazardous waste management program, set forth at the Code of Maryland Regulations (“COMAR”), Title 10, Subtitle 51 *et seq.*, in lieu of the federal hazardous waste management program established under RCRA Subtitle C, 42 U.S.C. §§ 6921-6939e. The State of Maryland Hazardous Waste Management Regulations (“MdHWMR”) originally were authorized by EPA on February 11, 1985, pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b). Revisions to the MdHWMR set forth at COMAR, Title 26, Subtitle 13, were authorized by EPA effective July 31, 2001 and September 24, 2004. The provisions of the revised federally-authorized program have thereby become requirements of RCRA Subtitle C are enforceable by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).
4. The factual allegations and legal conclusions in this CA are based on provisions of the federally-authorized MdHWMR in effect at the time of the violations alleged herein.
5. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), authorizes the assessment of a civil penalty against any person who violates any requirement of Subtitle C of RCRA. Respondent is hereby notified of EPA’s determination that Respondent has violated RCRA Subtitle C, 42 U.S.C. §§ 6921-6939e, and federally-authorized MdHWMR requirements, at its facility located at 6754 Santa Barbara Court, Elkridge, Maryland 21075.
6. In accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), and by written letter dated June 9, 2009, EPA notified the State of Maryland (hereinafter, the “State”), through the Hazardous Waste Enforcement Division Chief of the Maryland Department of the Environment (“MDE”), of EPA’s intent to commence this administrative action against Respondent in response to the violations of RCRA Subtitle C that are alleged herein.

II. GENERAL PROVISIONS

7. Respondent admits the jurisdictional allegations set forth in this CAFO.
8. Respondent neither admits nor denies the specific factual allegations or the conclusions of law contained in this CAFO, except as provided in Paragraph 7, immediately above, of this CA.
9. Respondent agrees not to contest EPA’s jurisdiction with respect to the execution of this CA, the issuance of the attached FO, or the enforcement of the CAFO.

10. For the purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this CA and any right to appeal the accompanying FO.
11. Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions.
12. Respondent shall bear its own costs and attorney's fees.
13. The provisions of this CAFO shall be binding upon Complainant and Respondent, its officers, directors, employees, successors and assigns.
14. This CAFO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit; nor does this CAFO constitute a waiver, suspension or modification of the requirements of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939e, or any regulations promulgated and/or authorized thereunder.

III. EPA FINDINGS OF FACT AND CONCLUSIONS OF LAW

15. In accordance with the *Consolidated Rules of Practice* at 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3), Complainant makes the following findings of fact and conclusions of law:
16. Respondent is a Delaware limited liability corporation headquartered in New York and wholly-owned by Sequa Corporation.
17. Respondent is the owner of Precoat Metals, a division of Sequa Coatings, LLC, which operates a metal coil coating facility located at 6754 Santa Barbara Court, Elkridge, Maryland 21075, EPA Facility I.D. # MDD069380657 (hereinafter, the "Facility").
18. At its Facility, the Respondent engages in the application of decorative and protective coatings to continuous coiled steel for use in commercial and residential construction projects.
19. Respondent is a "person" as that term is defined in Section 1004(15) of RCRA, 42 U.S.C. Section 6903(15), and COMAR 26.13.01.03(61).
20. The Facility identified in Paragraphs 17 and 18, above, is a hazardous waste storage "facility" as that term is defined in COMAR 26.13.01.03(23).

21. Respondent purchased the Facility on or about October 2, 2007 and, at all times relevant to the allegations in this CAFO, was and is the “owner” and “operator” of the Facility, as those terms are defined in COMAR 26.13.01.03(59) and (58).
22. As described below, Respondent is and, at all times relevant to the allegations in this CAFO has been, a “generator” of “solid waste” and “hazardous waste” at the Facility, as these terms are defined in COMAR 26.13.01.03(29), (73) and (31).
23. At all times relevant to the allegations in this CAFO, and as described below, Respondent has engaged in the “storage” of *solid waste* and *hazardous waste* in “container[s]” at the Facility, as the terms “storage” and “container” are defined in COMAR 26.13.01.03(76) and (9).
24. Respondent has submitted to EPA a Notification of Hazardous Waste Activity (“Notification”), pursuant to Section 3010 of RCRA, 42 U.S.C. § 6930, for its operations at the Facility, which include operation as a large quantity *generator of hazardous waste*.
25. A duly authorized representative of EPA (the “Inspector”) performed a compliance evaluation inspection (“CEI”) at the Facility on March 18, 2009 and conducted a file review of certain Facility records on March 27, 2009 in order to assess Respondent’s compliance with federally authorized MdHWMR requirements at the Facility.
26. On July 10, 2009 EPA sent a Notice of Noncompliance and Request to Show Cause letter (“NON”) to the Facility advising Respondent of EPA’s preliminary findings of MdHWMR violations at the Facility and offering the Respondent an opportunity to provide such additional information as it believed the Agency should review and consider before reaching any final conclusions as to the Respondent’s MdHWMR compliance at the Facility.
27. In response to the NON, Respondent provided EPA with supplemental information by correspondence dated August 5, 2009.
28. On the basis of the Facility Inspection, file review and a review of the supplemental information provided to EPA in response to the NON, EPA concludes that Respondent has violated certain requirements and provisions of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939e, and federally authorized MdHWMR requirements promulgated thereunder.

Applicable Definitions

29. Pursuant to COMAR 26.13.01.03:
- a. the term *container* “means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.” COMAR 26.13.01.03(9).
 - b. the term *facility* “means all continuous land, and structures, other appurtenances, and improvements on the land, used for treating, storing or disposing of hazardous waste. A facility may consist of several treatment, storage, or disposal operational units (for example, one or more landfills, surface impoundments, or combinations of them).” COMAR 26.13.01.03(23).
 - c. the term *generator* “means any person, by site, whose act or process produces hazardous waste identified or listed in COMAR 26.13.02 or whose act first causes a hazardous waste to become subject to regulation.” COMAR 26.13.01.03 (29).
 - d. the term *hazardous waste* “means a hazardous waste as defined in COMAR 26.13.02. Hazardous waste shall be synonymous with Controlled Hazardous Substance or CHS, except as provided in COMAR 26.13.02.06.” COMAR 26.13.01.03(31).
 - e. a *hazardous waste management unit* “is a contiguous area of land on or in which hazardous waste is placed, or the largest area in which there is significant likelihood of mixing hazardous waste constituents in the same area. Examples of hazardous waste management units include a surface impoundment, a waste pile, a land treatment area, a landfill cell, an incinerator, a tank and its associated piping and underlying containment system and a container storage area. A container alone does not constitute a unit. The unit includes containers and the land or pad upon which they are placed.” COMAR 26.13.01.03(34).
 - f. the term *management or hazardous waste management* “means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of hazardous waste.” COMAR 26.13.01.03(49).
 - g. the term *operator* “means the person responsible for the overall operation of a facility.” COMAR 26.13.01.03(58).
 - h. the term *owner* “means the person who owns a facility or part of a facility.” COMAR 26.13.01.03(59).

- i. the term *storage* “means the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.” COMAR 26.13.01.03(76).

Permit/Interim Status Requirements

30. Pursuant to Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and COMAR 26.13.07.01, with exceptions not herein relevant, no person may own or operate a facility for the treatment, storage or disposal of hazardous waste without first obtaining a permit or interim status for such facility.
31. At all times relevant hereto, Respondent did not have a permit, pursuant to Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), or COMAR 26.13.07.01, for the storage of hazardous waste at the Facility, and did not have interim status pursuant to Section 3005(e) of RCRA, 42 U.S.C. § 6925(e), or COMAR 26.13.07.23.

Permit Exemption Conditions - Accumulation Time/Requirements

32. Pursuant to COMAR 26.13.03.05E(1), “[a] generator may accumulate hazardous waste on-site without a permit or without holding interim status for 90 days or less” so long as the hazardous waste is accumulated in accordance with a number of conditions set forth in that section, including, *inter alia*:
 - a. the condition set forth at COMAR 26.13.03.05E(1)(a), which requires that “[t]he waste [be] shipped off-site within 90 days to a permitted facility or places in an on-site permitted facility; and
 - b. the condition set forth at COMAR 26.13.03.05E(1)(e), which requires that “[t]he date upon which each period of accumulation begins must be clearly marked and visible for inspection on each container.
33. Pursuant to COMAR 26.13.03.05E(3), “[a] generator may accumulate as much as 55 gallons of hazardous waste or 1 quart of acutely hazardous waste listed in COMAR 26.13.02.19E in containers at or near any point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit and without complying with §E(1) provided the generator: (a) Complies with COMAR 26.13.05.09B — D; and (b) Marks his containers either with the words ‘Hazardous Waste’ or with other words that identify the contents of the containers.”

COUNT I
(Operating Without a Permit or Interim Status)

34. The allegations of Paragraphs 1 through 33 of this Consent Agreement are incorporated herein by reference.
35. At all times relevant to the allegations in this CAFO, Respondent has been the *owner* and *operator* of a *facility* (i.e., the Facility), where the Respondent was a *generator* of *hazardous waste* and engaged in *hazardous waste management* activities that included the *storage* of *solid waste* and *hazardous waste* in *container[s]* and at *hazardous waste management unit[s]*, as these terms are defined in COMAR 26.13.01.03.
36. As described immediately below, the Respondent stored *containers* of *hazardous waste* on the Facility's paint house floor less than 90 day accumulation area for time periods in excess of the ninety day storage limitation set forth at COMAR 26.13.03.05E(1) on each of the following occasions:
- a. one black plastic drum of *hazardous waste* labeled "1455" and with an accumulation start date of December 17, 2008 was stored on-site at this area of the Facility from December 17, 2008 through March 18, 2009, a period of 92 days;
 - b. One white metal drum of D001/D007/F003/F005 *hazardous waste* rags containing the flammable liquids xylene and acetone, labeled as containing "Hazardous waste" and with an accumulation start date of December 18, 2008, was stored on-site at this area of the Facility from December 18, 2008 through March 23, 2009, a period of 96 days;
 - c. One black metal drum of D001/D007/F003/F005 *hazardous waste* rags containing the flammable liquids xylene and acetone, labeled as containing "coater solids" and with an accumulation start date of December 18, 2008, was stored on-site at this area of the Facility from December 18, 2008 through March 23, 2009, a period of 96 days.
 - d. One drum of *hazardous waste* that was not labeled with an accumulation start date (i.e., one of the four drums further identified in Paragraph 37, below) was stored on-site at this area of the Facility from December 18, 2008 through March 23, 2009, a period of 96 days.

- e. two *containers* of D001/D007/D035/F003/F005 *hazardous waste* lacquer thinner, containing acetone and methyl ethyl ketone (“MEK”), were stored on-site at this area of the Facility from October 27, 2008 through February 5, 2009, a period of 102 days;
 - f. two *containers* of D001/D007/D035/F003/F005 *hazardous waste* lacquer thinner, containing acetone and MEK, were stored on-site at this area of the Facility from October 28, 2008 through February 5, 2009, a period of 101 days;
 - g. one *container* of D001/D007/D035/F003/F005 *hazardous waste* lacquer thinner, containing acetone and MEK, was stored on-site at this area of the Facility from October 29, 2008 through February 5, 2009, a period of 100 days;
 - h. one *container* of D001/D007/D035/F003/F005 *hazardous waste* lacquer thinner, containing acetone and MEK, was stored on-site at this area of the Facility from October 30, 2008 through February 5, 2009, a period of 99 days;
 - i. two *containers* of D001/D007/D035/F003/F005 *hazardous waste* lacquer thinner, containing acetone and MEK, were stored on-site at this area of the Facility from November 4, 2008 through February 5, 2009, a period of 94 days;
 - j. two *containers* of D001/D007/D035/F003/F005 *hazardous waste* lacquer thinner, containing acetone and MEK, were stored on-site at this area of the Facility from November 5, 2008 through February 5, 2009, a period of 93 days;
 - k. one *container* of D007 *hazardous waste* liquid, containing chrome, was stored on-site at this area of the Facility from March 24, 2008 through July 3, 2008, a period of 102 days; and
 - l. one *container* of D007 *hazardous waste* liquid, containing chromic and phosphoric acids, was stored on-site at this area of the Facility from September 24, 2007 through December 26, 2007, a period of 94 days.
37. On March 18, 2009, at the time of the CEI, Respondent was storing *hazardous waste* on the Facility’s paint house floor less than 90 day accumulation area in four *containers*, described below, that were not marked with the date upon which the period of accumulation began, as required pursuant to COMAR 26.13.03.05E(1)(e):
- a. one 55-gallon drum of coater solids labeled “waste flammable solid”;
 - b. one 55-gallon drum labeled “hazardous waste corrosive liquid”;

- c. one 55-gallon black plastic hazardous waste drum labeled "liquid chrome"; and
 - d. one black metal hazardous waste drum labeled "solid chrome".
38. On March 18, 2009, at the time of the CEI, Respondent was storing greater than 55 gallons of *hazardous waste* in two 55-gallon drum *containers* located at the Facility's chemical coater satellite accumulation area, as described below:
- a. one closed 55 gallon drum containing *hazardous waste* from the chemical coater at the Facility was labeled as containing "Hazardous Waste" and "solid chrome" and was approximately three-quarters full; and
 - b. one closed 55 gallon drum containing *hazardous waste* from the chemical coater at the Facility was labeled as containing Hazardous Waste liquid chrome and was approximately one-half full.
39. Respondent failed to comply with the conditions, identified in Paragraphs 32 and 33, above, for temporary (*i.e.*, 90 days or less) or satellite accumulation of *hazardous waste* by a *generator* that are required pursuant to COMAR 26.13.03.05E(1) and (3), and therefore failed to qualify for an exemption from the permitting/interim status requirements provided by such section.
40. Respondent violated COMAR 26.13.07.01 and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), by operating *hazardous waste storage facilities* without a permit, interim status or valid exemption to the permitting/interim status requirements.

IV. CIVIL PENALTIES

41. Respondent agrees to pay a civil penalty in the amount of **Thirty One Thousand Seven Hundred and Fifty Dollars (\$31,750.00)**, in settlement and satisfaction of all civil claims for penalties which Complainant may have concerning the violations alleged and set forth in Section III ("EPA Findings of Fact and Conclusions of Law") of this CA. Such civil penalty shall become due and payable immediately upon Respondent's receipt of a true and correct copy of the CAFO. In order to avoid the assessment of interest, administrative costs and late payment penalties in connection with such civil penalty, Respondent must pay such civil penalty no later than thirty (30) calendar days after the date on which this CAFO is mailed or hand-delivered to Respondent.

42. The civil penalty settlement amount set forth in the paragraph immediately above was determined after consideration of the statutory factors set forth in Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), which include the seriousness of the violation and any good faith efforts to comply with the applicable requirements. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's October, 1990 RCRA Civil Penalty Policy, as revised in June, 2003 ("RCRA Penalty Policy"), which reflect the statutory penalty criteria and factors set forth at Section 3008(a)(3) and (g) of RCRA, 42 U.S.C. §§ 6928(a)(3) and (g), the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, the September 21, 2004 memorandum by Acting EPA Assistant Administrator Thomas V. Skinner, entitled *Modifications to EPA Penalty Policies to Implement the Civil Monetary Penalty Inflation Adjustment Rule* ("Skinner Memorandum") and the December 29, 2008 memorandum by EPA Assistant Administrator Granta Y. Nakayama, entitled *Amendments to EPA's Civil Penalty Policies to Implement the 2008 Civil Monetary Penalty Inflation Adjustment Rule (Effective January 12, 2009)* ("Nakayama Memorandum"). Pursuant to 40 C.F.R. Part 19, penalties for RCRA violations occurring after January 30, 1997 were increased by 10% to account for inflation, not to exceed a \$27,500.00 per violation statutory maximum penalty. Pursuant to 40 C.F.R. Part 19, and as further provided in the Skinner Memorandum, penalties for RCRA violations occurring after March 15, 2004 and up to January 12, 2009 have been increased by an additional 17.23% to account for subsequent inflation, not to exceed a \$32,500.00 per violation statutory maximum penalty. Pursuant to 73 Fed. Reg. 75340-46 (Dec. 11, 2008), and as further provided in the Nakayama Memorandum, penalties for RCRA violations occurring after January 12, 2009 have been increased by an additional 9.83% to account for subsequent inflation, not to exceed a \$37,500.00 per violation statutory maximum penalty.
43. Payment of the civil penalty as required by paragraph 41, above, shall be made by either cashier's check, certified check, or electronic wire transfer, in the following manner:
- a. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action (*Docket No. RCRA-03-2009-0262*);
 - b. All checks shall be made payable to "United States Treasury";
 - c. All payments made by check and sent by regular mail shall be addressed and mailed to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Contact: Eric Volck 513-487-2105

- d. All payments made by check and sent by overnight delivery service shall be addressed and mailed to:

U.S. Bank
Government Lockbox 979077
U.S. EPA, Fines & Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

Contact: 314-418-1028

- e. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance
U.S. EPA, MS-NWD
26 W. M.L. King Drive
Cincinnati, OH 45268-0001

- f. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"

- g. All electronic payments made through the automated clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX / Cashlink ACH Receiver
ABA = 051036706
Account No.: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 - Checking

Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737
Contact: Jesse White 301-887-6548 or REX, 1-866-234-5681

- h. On-Line Payment Option:

WWW.PAY.GOV/PAYGOV

Enter sfo 1.1 in the search field. Open and complete the form.

- i. Additional payment guidance is available at:

http://www.epa.gov/ocfo/finservices/make_a_payment.htm

44. At the time of payment, Respondent simultaneously shall send a notice of such payment, including a copy of the check or electronic fund transfer, as applicable, to:

Ms. Lydia Guy
Regional Hearing Clerk (3RC00)
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029;

and

A.J. D'Angelo
Sr. Assistant Regional Counsel (3RC30)
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029.

45. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest, administrative costs and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below.
46. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11(a), EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment or to comply with the conditions in this CAFO shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.
47. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a true and correct copy of this CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).
48. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
49. A late payment penalty of six percent (6%) per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). The late payment penalty on any portion of the civil penalty that remains delinquent more than ninety days shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
50. The Respondent agrees not to deduct for federal tax purposes the civil monetary penalty specified in this CAFO.

V. CERTIFICATIONS

51. Respondent certifies to Complainant by its signature hereto, to the best of Respondent's knowledge and belief, that Respondent and the Facility currently are in compliance with all relevant provisions of the authorized revised MdHWMR and of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939e, for which violations are alleged in this CA.

VI. OTHER APPLICABLE LAWS

52. Nothing in this CAFO shall relieve Respondent of any duties otherwise imposed upon it by applicable federal, state, or local law and/or regulation.

VII. RESERVATION OF RIGHTS

53. This CAFO resolves only EPA's claims for civil penalties for the specific violations which are alleged in this CA. Nothing in this CAFO shall be construed as limiting the authority of EPA to undertake action against any person, including the Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the *Consolidated Rules of Practice*. Further, EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO following its filing with the Regional Hearing Clerk.

VIII. FULL AND FINAL SATISFACTION

54. This settlement shall constitute full and final satisfaction of all civil claims for penalties which Complainant has under RCRA Section 3008(a) and (g), 42 U.S.C. § 6928(a) and (g), for the violations alleged in this CA.

IX. PARTIES BOUND

55. This CA and the accompanying FO shall apply to and be binding upon the EPA, the Respondent, Respondent's officers and directors (in their official capacity) and Respondent's successors and assigns. By his or her signature below, the person signing this CA on behalf of Respondent acknowledges that he or she is fully authorized to enter into this CA and to bind the Respondent to the terms and conditions of this CA and the accompanying FO.

X. EFFECTIVE DATE

56. The effective date of this CAFO is the date on which the FO is filed with the Regional Hearing Clerk after signature by the Regional Administrator or his designee, the Regional Judicial Officer.

XI. ENTIRE AGREEMENT

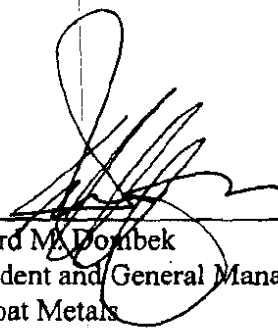
57. This CAFO constitutes the entire agreement and understanding of the parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this CAFO.

For Respondent Sequa Coatings, LLC:

Date:

9/08/07

By:


Gerard M. Dombek
President and General Manager
Precoat Metals

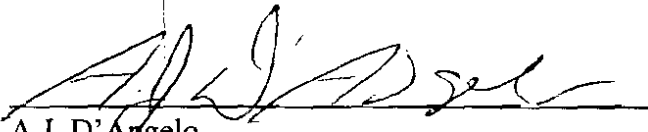
In Re: Sequa Coatings, LLC
EPA Facility I.D. #MDD069380657

Consent Agreement
Docket No. RCRA-03-2009-0262

For the Complainant:

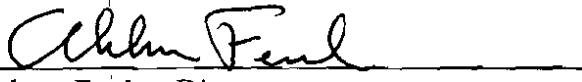
U.S. Environmental Protection Agency, Region III

Date: 9/15/2009

By: 
A.J. D'Angelo
Sr. Assistant Regional Counsel

After reviewing the EPA Findings of Fact, Conclusions of Law and other pertinent matters, the Land and Chemicals Division of the United States Environmental Protection Agency, Region III, recommends that the Regional Administrator, or his designee, the Regional Judicial Officer, issue the attached Final Order.

Date: 9/17/09

By: 
Abraham Ferdas, Director
Land and Chemicals Division

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103

DATE: 07/21/09 03:33

In Re:

Sequa Coatings, LLC
200 Park Avenue
New York, New York 10166,

RESPONDENT.

Precoat Metals
6754 Santa Barbara Court
Elkridge, Maryland 21075
EPA Facility I.D. # MDD069380657

FACILITY.

)
)
) Docket No. RCRA-03-2009-0262
)
)
)

) Proceeding Under Section
) 3008(a) and (g) of the
) Resource Conservation and
) Recovery Act, as amended,
) 42 U.S.C. § 6928(a) and (g)
)
)
)

FINAL ORDER

Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III, and Respondent, Sequa Coatings, LLC, have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("*Consolidated Rules of Practice*"), 40 C.F.R. Part 22, with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

NOW, THEREFORE, pursuant to Section 3008(a) and (g) of the Solid Waste Disposal Act, commonly known as Resource Conservation and Recovery Act of 1976, as amended, *inter alia*, by the Hazardous and Solid Waste Amendments of 1984 (collectively

In Re: Sequa Coatings, LLC
EPA Facility I.D. #MDD069380657

Consent Agreement
Docket No. RCRA-03-2009-0262

referred to hereinafter as "RCRA"), 42 U.S.C. § 6928(a) and (g), and the *Consolidated Rules of Practice*, after having determined, based on the representations of the Parties set forth in the Consent Agreement, that the civil penalty of Thirty One Thousand Seven Hundred and Fifty Dollars (\$31,750.00) agreed to therein was based upon a consideration of the factors set forth in RCRA Section 3008(a), 42 U.S.C. § 6928(a), **IT IS HEREBY ORDERED** that Respondent pay a civil monetary penalty of Thirty One Thousand Seven Hundred and Fifty Dollars (\$31,750.00) in accordance with the provisions of the foregoing Consent Agreement and comply timely with each of the additional terms and conditions thereof.

The effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

9/21/09
Date

Renée Sarajian
Renée Sarajian
Regional Judicial Officer
U.S. Environmental Protection Agency, Region III

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103

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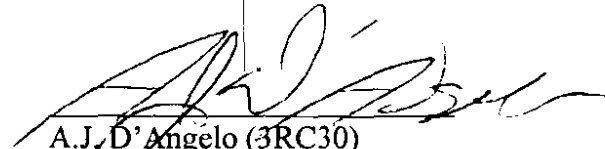
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)
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200 Park Avenue)
New York, New York 10166,)
)
RESPONDENT.) Proceeding Under Section
) 3008(a) and (g) of the
Precoat Metals) Resource Conservation and
6754 Santa Barbara Court) Recovery Act, as amended,
Elkridge, Maryland 21075) 42 U.S.C. § 6928(a) and (g)
EPA Facility I.D. # MDD069380657)
)
FACILITY.)

CERTIFICATE OF SERVICE

I hereby certify that on the date set forth below, I caused to be hand-delivered to Ms. Lydia Guy, Regional Hearing Clerk (3RC00), U.S. EPA Region III, 1650 Arch Street, 5th Floor, Philadelphia, PA 19103-2029, the original and one copy of the foregoing Consent Agreement and of the accompanying Final Order. I further certify that on the date set forth below, I caused true and correct copies of the same to be mailed via Certified Mail, Return Receipt Requested, Postage Prepaid (Article No. 7004 2890 0000 5075 5244), to the following person at the following address:

Karl S. Bourdeau, Esquire
Beveridge & Diamond, PC
1350 I Street, NW ~ Suite 700
Washington, DC 20005

9/21/2009
Date


A.J. D'Angelo (3RC30)
Sr. Assistant Regional Counsel
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029
Tel. (215) 814-2480