



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

MAY 3 1 2016

Certified Mail, Return Receipt Requested

Jerome Robbins, II
Robbins Manufacturing Co.
13904 State Road 471
Webster, Florida 32803

Dear Mr. Robbins:

Enclosed please find the fully executed Consent Agreement and Final Order memorializing the settlement of the matter involving Robbins Manufacturing Co., identified as Docket No. RCRA-04-2016-4003(b). EPA thanks you for having already sent in your check for \$15,000 in full payment of the civil penalty, and for your help resolving this matter.

Sincerely,

A handwritten signature in blue ink that reads "Deborah Benjamin".

Deborah Benjamin
Associate Regional Counsel

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)	DOCKET NO.: RCRA-04-2016-4003(b)
)	
Robbins Manufacturing Company)	
13904 State Road 471)	Proceeding Under Section 3008(a) of the
Webster, Florida 32803)	Resource Conservation and Recovery Act,
EPA ID No.: FLR000179945)	42 U.S.C. § 6928(a)
)	
Respondent)	
_____)	

USEPA, REGION 4
OFFICE OF REGIONAL
COUNSEL
2016 MAY 31 AM 7: 25
HEARING CLERK

CONSENT AGREEMENT

I. NATURE OF THE ACTION

1. This is a civil administrative enforcement action, pursuant to Section 3008(a) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a), ordering compliance with the requirements of the Chapter 403 of the Florida Statutes (Fla. Stat.), Fla. Stat. § 403.702 *et seq.* [Subtitle C of RCRA, 42 U.S.C. §§ 6921-6939f], and the regulations promulgated pursuant thereto and set forth at Rule 62-730 *et seq.* of the Florida Administrative Code Annotated (Fla. Admin. Code Ann.) [Title 40 of the Code of Federal Regulations (C.F.R.), Parts 260 through 270, 273, & 279]. This action seeks the imposition of civil penalties pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for violations of Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] and Fla. Admin. Code Ann. r. 62-730 *et seq.* [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 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 Robbins Manufacturing Company, a corporation organized under the laws of Florida. Respondent is the owner and operator of a lumber yard and a saw mill, and conducts pressure treating of fence posts, marine pilings, foundation pilings, and barn poles with chromated copper arsenate. The Respondent is located at 13904 State Road 471 in Webster, Florida (the Facility).

III. PRELIMINARY STATEMENTS

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the State of Florida (State) has received final authorization to carry out a hazardous waste program in lieu of the federal program set forth in RCRA. The requirements of the authorized State program are found at Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722.
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. Florida has received final authorization for certain portions of HSWA, including those recited herein.
8. Although the EPA has granted the State authority to enforce its own hazardous waste program, the EPA retains jurisdiction and authority to initiate an independent enforcement action pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2). This authority is exercised by the EPA in the manner set forth in the Memorandum of Agreement between the EPA and the State.
9. As the State's authorized hazardous waste program operates in lieu of the federal RCRA program, the citations for the violations of those authorized provisions alleged herein will be to the authorized State program; however, for ease of reference, the federal citations will follow in brackets.
10. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), Complainant has given notice of this action to the State before issuance of this CA/FO.
11. Section 403.721 of the Florida Statutes, Fla. Stat. § 403.721 [Section 3002(a) of RCRA, 42 U.S.C. § 6922(a)], requires the promulgation of standards applicable to generators of hazardous waste. The implementing regulations for these standards are found at Fla. Admin. Code Ann. r. 62-730.160 [40 C.F.R. Part 262].
12. Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925], sets forth the requirement that a facility treating, storing, or disposing of hazardous waste must have a permit or interim status. The implementing regulations for this requirement are found at Fla. Admin. Code Ann. r. 62-730.180(1) (permitted) and Fla. Admin.

JSL

Code Ann. r. 62-730.180(2) (interim status)] [40 C.F.R. Parts 264 (permitted) and 265 (interim status)].

13. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.2], a “solid waste” is any discarded material that is not otherwise excluded from the regulations. A discarded material includes any material that is abandoned by being stored in lieu of being disposed.
14. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.3], a solid waste is a “hazardous waste” if it meets any of the criteria set forth in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.3(a)(2)] and is not otherwise excluded from regulation as a hazardous waste by Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.4(b)].
15. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.3(a)(2)(i) and 261.20], solid wastes that exhibit any of the characteristics identified in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.21-24] are characteristic hazardous waste and are provided with the EPA Hazardous Waste Numbers D001 through D043.
16. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.20 and 261.24], a solid waste that exhibits the characteristic of toxicity is a hazardous waste and is identified with the EPA Hazardous Waste Number associated with the toxic contaminant causing it to be hazardous.
17. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for arsenic is identified with the EPA Hazardous Waste Number D004.
18. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for chromium is identified with the EPA Hazardous Waste Number D007.
19. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.3(a)(2)(ii) and 261.30], a solid waste is a listed “hazardous waste” if it is listed Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. Part 261, Subpart D].
20. Listed hazardous wastes include the F-Listed wastes from non-specific sources identified in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.31].
21. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], a “generator” is defined as any person, by site, whose act or process produces hazardous waste identified or listed in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. Part 261], or whose act first causes a hazardous waste to become subject to regulation.
22. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], a “facility” includes “all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste.”
23. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], a “person” includes a corporation.



24. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], an “owner” is “the person who owns a facility or part of a facility” and an “operator” is “the person responsible for the overall operation of a facility.”
25. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], “storage” means the holding of a hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.
26. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)], a generator of 1,000 kilograms or greater of hazardous waste 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 provided that the generator complies with the conditions listed in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(1)-(4)] (hereinafter referred to as the “LQG Permit Exemption”).
27. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(1)(i)], a condition of the LQG Permit Exemption allows a generator to accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that the waste is placed in containers and the generator complies with the applicable requirements of subparts I, AA, BB, and CC of 40 C.F.R. Part 265.
28. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], “tank” means a stationary device, designed to contain an accumulation of hazardous waste which is constructed primarily of non-earthen materials (e.g., wood, concrete, steel, plastic) which provide structural support.
29. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(1)(ii)], a condition of the LQG Permit Exemption allows a generator to accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that the waste is placed in tanks and the generator complies with the applicable requirements of subparts J, AA, BB, and CC of 40 CFR part 265 except §§265.197(c) and 265.200.
30. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(1)(ii)], which incorporates Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 265.192(a)], a condition of the LQG Permit Exemption requires a generator accumulating hazardous waste in tanks to obtain a written tank assessment reviewed and certified by a qualified Professional Engineer, attesting that the system has sufficient structural integrity and is acceptable for the storing and treating of hazardous waste.
31. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], “drip pad” means an engineered structure consisting of a curbed, free-draining base, constructed of non-earthen materials and designed to convey preservative kick-back or drippage from treated wood, precipitation, and surface water run-on to an associated collection system at wood preserving plants.
32. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(1)(iii)], a condition of the LQG Permit Exemption allows a generator to accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that the waste is placed

- on drip pads and the generator complies with subpart W of 40 C.F.R. Part 265 and maintains the records at the facility.
33. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(1)(iii)], which incorporates Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 265.443(a)(4)(ii)], and is a condition of the LQG Permit Exemption, the owner or operator must obtain and keep on file at the facility a written assessment of the drip pad, reviewed and certified by a qualified Professional Engineer that attests to the results of the evaluation. The assessment must be reviewed, updated and recertified annually. The evaluation must document the extent to which the drip pad meets the design and operating standards of this section, except for paragraph (b) of this section.
 34. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(1)(iii)], which incorporates Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 265.443(c)], and is a condition of the LQG Permit Exemption, drip pads must be maintained such that they remain free of cracks, gaps, corrosion, or other deterioration that could cause hazardous waste to be released from the drip pad.
 35. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(1)(iii)], which incorporates Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 265.443(d)], and is a condition of the LQG Permit Exemption, the drip pad and associated collection system must be designed and operated to convey, drain, and collect liquid resulting from drippage or precipitation in order to prevent run-off.
 36. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(1)(iii)], which incorporates Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 265.443(f)], and is a condition of the LQG Permit Exemption, unless protected by a structure or cover, as described in § 265.440(b) of this subpart, the owner or operator must design, construct, operate and maintain a run-off management system to collect and control at least the water volume resulting from a 24-hour, 25-year storm.
 37. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(1)(iii)], which incorporates Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 265.443(m)], and is a condition of the LQG Permit Exemption, throughout the active life of the drip pad, if the owner or operator detects a condition that may have caused or has caused a release of hazardous waste, the condition must be repaired within a reasonably prompt period of time following discovery.
 38. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(1)(iii)], which incorporates Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 265.444(b)], while a drip pad is in operation, it must be inspected weekly and after storms to detect evidence of any of the following: (1) Deterioration, malfunctions or improper operation of run-on and run-off control systems; (2) The presence of leakage in and proper functioning of leakage detection system; and (3) Deterioration or cracking of the drip pad surface.
 39. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(4)], which incorporates Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 265.16(a)], and is a condition of the LQG Permit Exemption, facility personnel must successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of this part. The owner or operator

must ensure that this program includes all the elements described in the document required under paragraph (d)(3) of this section.

40. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(4)], which incorporates Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 265.16(c)], and is a condition of the LQG Permit Exemption, facility personnel must take part in an annual review of the initial training required in paragraph (a) of this section.
41. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(4)], which incorporates Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 265.16(d)], and is a condition of the LQG Permit Exemption, the owner or operator must maintain the following documents and records at the facility: (1) The job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job; (2) A written job description for each position listed under paragraph (d)(1) of this Section; (3) A written description of the type and amount of both introductory and continuing training that will be given to each person filling a position listed under paragraph (d)(1) of this section; and (4) Records that document that the training or job experience required under paragraphs (a), (b), and (c) of this Section has been given to, and completed by, facility personnel.

IV. EPA ALLEGATIONS AND DETERMINATIONS

42. Respondent is a “person” as defined in Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10].
43. Respondent is the “owner/operator” of a “facility” located in 13904 State Road 471 in Webster, Florida, as those terms are defined in Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10].
44. Respondent is a “generator” of “hazardous waste” as those terms are defined in Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10] and Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.3].
45. Respondent is a lumber yard, a saw mill, and conducts pressure treating of fence posts, marine pilings, foundation pilings, and barn poles with chromated copper arsenate (CCA).
46. At all times relevant to this CAFO Respondent was an LQG as that term is defined in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)].
47. On September 24, 2014, the FDEP conducted a compliance evaluation inspection (CEI) at the Respondent’s facility (FDEP CEI).
48. On February 12, 2015, the EPA and FDEP conducted a CEI at the Respondent’s facility (joint CEI). The findings of the joint CEI were documented in a Report mailed to Respondent, dated May 26, 2015.
49. During the joint CEI, the inspectors observed that the used 100-micron felt filter bags used for filtering dirty CCA and water solution from East and West End J-Pans were left on an I-beam footing to dry before being reused. The filter bags were contaminated with chromium and were

not properly stored in a container to minimize the release of a hazardous waste to the environment.

50. Respondent failed to meet a condition of the LQG Permit Exemption set forth in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(1)(i)], by not containerizing hazardous waste and thereby not complying with the applicable requirements of Fla. Admin. Code Ann. r. 62-730.180(2) [Subparts I, AA, BB, and CC of 40 C.F.R. Part 265]. The EPA therefore alleges that Respondent violated Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status.
51. During the FDEP CEI and the joint CEI, the inspectors observed that the East and West drip pads were inadequately constructed and maintained. The East and West drip pads are constructed of concrete with an iron angle curb surrounding the pad. Specifically, during both the FDEP CEI, and the joint CEI, the inspectors observed the following:
 - a. The joint sealant was not applied as required by 40 C.F.R. § 265.443(a)(4)(i).
 - b. There were several areas on the drip pads where the angle iron curb was either missing or damaged, which would allow waste CCA, a F035 listed hazardous waste that is also characteristically toxic for arsenic and chromium, to be released onto the ground during precipitation events.
52. Respondent failed to meet a condition of the LQG Permit Exemption set forth in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(1)(iii)] by not complying with the drip pad design and operating requirements of the Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. §§ 265.443(c), (d), (f), and (m)]. The EPA therefore alleges Respondent violated Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status.
53. During the joint CEI, the original drip pad certification and the yearly assessment of the drip pads were not available at the time of the inspection.
54. Respondent failed to meet a condition of the LQG Permit Exemption set forth in Fla. Admin. Code Ann. R. 62-730.160(1) [40 C.F.R. § 262.34(a)(1)(iii)] by not complying with the drip pad certification and yearly assessment requirements of the Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 265.443(a)(4)(ii)]. The EPA therefore alleges that Respondent violated Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status.
55. During both the FDEP CEI, and the joint CEI, the inspectors reviewed the drip pad weekly inspection records, which noted the drip pads being in good condition. This is contrary to the observations made during both the FDEP CEI, and the joint CEI, which found the drip pads to be inadequately constructed and maintained. As such, the Respondent was not conducting adequate inspection of its drip pads.
56. Respondent failed to meet a condition of the LQG Permit Exemption set forth in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(1)(iii)], by not complying with the drip pad inspection requirements of Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 265.444(b)]. The EPA therefore alleges Respondent violated Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status.

57. During the joint CEI, the inspectors observed that Respondent did not have a written tank certification for the J-Pans. The J-Pans are steel tanks approximately 6 to 8 inches deep used to accumulate CCA solution, rainwater, and debris.
58. Respondent failed to meet a condition of the LQG Permit Exemption set forth in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(1)(ii)], by not complying with tank certification requirements in Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 265.192(a)]. The EPA therefore alleges that Respondent violated Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status.
59. During the joint CEI the inspectors observed waste CCA-contaminated debris on top of the J-Pan grates being left to drain and dry before being containerized in a hazardous waste drum. The EPA informed Respondent that the CCA-contaminated debris could not be left in the open to dry and that the contaminated debris must be contained at all times.
60. Respondent failed to meet a condition of the LQG Permit Exemption set forth in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(1)(i)], by not containerizing hazardous waste and thereby not complying with the applicable requirements of Fla. Admin. Code Ann. r. 62-730.180(2) [Subparts I, AA, BB, and CC of 40 C.F.R. Part 265]. The EPA therefore alleges Respondent violated Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status.
61. During the FDEP inspection, the inspector requested the training plan and training records for Respondent's personnel. At that time these training records were not available. As a follow-up, on January 16, 2015, the Respondent provided one hazardous waste training sign-in sheet, dated June 4, 2012; however, this document did not show that all facility employees had been trained. Additionally, the Respondent didn't provide annual training documents. Furthermore, during the joint CEI the inspectors found that additional annual hazardous waste training records were not available for each position related to hazardous waste management, including job titles, job descriptions, and descriptions of the type and amount of training to be given.
62. Respondent failed to meet a condition of the LQG Permit Exemption set forth in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(4)] by not complying with the personnel training requirements of Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. §§ 265.16(a), (c), and (d)]. The EPA therefore alleges Respondent violated Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status.
63. During the joint CEI, the inspectors observed that the contingency plan, dated June 1, 2012, did not contain the primary and secondary emergency coordinators' home addresses and home phone numbers.
64. Respondent failed to meet a condition of the LQG Permit Exemption set forth in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(4)] by not complying with the contingency plan requirements of Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 265.53(a)]. The EPA therefore alleges Respondent violated Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status.

65. During the joint CEI, the inspectors reviewed hazardous waste manifests for the years 2012 to 2014 and found that six shipments of contaminated CCA debris and dust did not include the EPA Waste Code F035.
66. The EPA therefore alleges that Respondent violated Fla. Admin. Code Ann r. 62-730.150(1) [40 C.F.R. § 261.20(b)], by failing to ensure a hazardous waste which is identified by a characteristic in this Subpart is assigned every applicable EPA Hazardous Waste Number set forth in this Subpart. This number must be used to comply with the notification requirements of Section 3010 of the Act and all applicable recordkeeping and reporting requirements under Parts 262 through 265, 268, and 270 of this Chapter.

V. TERMS OF AGREEMENT

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

67. 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.
68. Respondent neither admits nor denies any of the factual allegations and determinations set out in this CA/FO.
69. Respondent waives any right to contest the allegations and its right to appeal the proposed Final Order accompanying the Consent Agreement.
70. 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.*
71. 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.
72. 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.
73. 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.
74. Respondent, by signing this CA/FO, certifies that to the best of its knowledge and belief, Respondent is currently in compliance with RCRA and the authorized State hazardous waste program.
75. 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.

76. Each party will pay its own costs and attorneys' fees.

VI. PAYMENT OF CIVIL PENALTY

77. Respondent consents to the payment of a civil penalty in the amount of FIFTEEN THOUSAND DOLLARS (\$15,000), which is to be paid within thirty (30) calendar days of the effective date of this CA/FO.

78. 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

79. Respondent shall submit a copy of the payment to the following individuals:

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

And to:

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

80. 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).

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

VII. PARTIES BOUND

82. 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.
83. 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.
84. 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

85. 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.
86. 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.
87. Except for the matters addressed in this CA/FO, 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.
88. Respondent reserves all of its rights and defenses as to any future enforcement actions initiated by EPA.

IX. OTHER APPLICABLE LAWS

89. 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

90. 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:

Deborah Benjamin
Associate Regional Counsel
Office of RCRA, OPA and UST Legal Support
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
(404) 562-9561

91. 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:

George Gramling, Esq.
Gramling Environmental Law, P.A.
118 South Newport Avenue
Tampa, Florida 33606

XI. SEVERABILITY

92. 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

93. The effective date of this CA/FO shall be the date on which the CA/FO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

Robbins Manufacturing Company

By: 

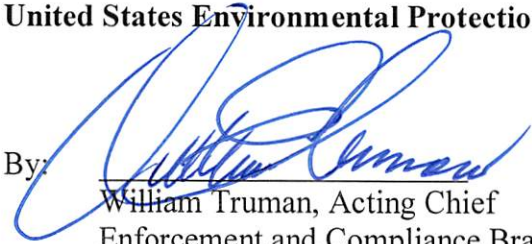
Jerome Robbins, II
Vice President and Secretary

Dated: 5-9-16

In the matter of Robbins Manufacturing Company, Docket No. RCRA-04-2016-4003(b):

United States Environmental Protection Agency

By:



William Truman, Acting Chief
Enforcement and Compliance Branch
Resource Conservation and Restoration Division

Dated:

5/26/2016

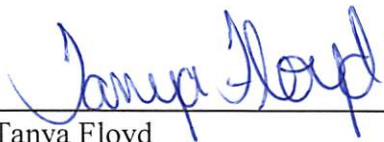
**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)	DOCKET NO.: RCRA-04-2016-4003(b)
)	
Robbins Manufacturing Company)	
13904 State Road 471)	Proceeding Under Section 3008(a) of the
Webster, Florida 32803)	Resource Conservation and Recovery Act,
EPA ID No.: FLR000179945)	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 27th day of May, 2016.

BY: 
Tanya Floyd
Regional Judicial Officer
EPA Region 4



CERTIFICATE OF SERVICE

I hereby certify that I have this day filed the original and a true and correct copy of the foregoing Consent Agreement and the attached Final Order (CA/FO), in the Matter of Robbins Manufacturing Company, Docket Number: RCRA-04-2016-4003(b), and have served the parties listed below in the manner indicated:

Deborah Benjamin
Associate Regional Counsel
Office of RCRA, OPA and UST Legal Support
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

(Via EPA's electronic mail)

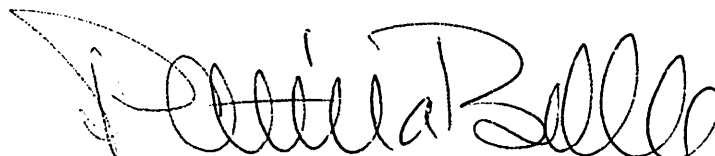
Paula Whiting
Enforcement and Compliance Branch
Resource Conservation and Restoration Division
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

(Via EPA's electronic mail)

Jerome Robbins, II
Robbins Manufacturing Company
13904 State Road 471
Webster, Florida 32803

(Via Certified Mail - Return Receipt
Requested)

Date: 5-31-16



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

