



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

JUN 25 2013

Via Certified Mail, Return Receipt Requested

Mr. John Taylor
Executive Vice President/Technical Services
High Performance Systems, Inc.
1201 American Superior Boulevard
Winter Haven, Florida 33880

SUBJ: Consent Agreement and Final Order
High Performance Systems, Inc.
Docket No. RCRA-04-2013-4002(b)

Dear Mr. Taylor:

Enclosed please find a copy of the executed Consent Agreement and Final Order (CA/FO) as filed with the Regional Hearing Clerk (RHC) in the above-referenced matter. The CA/FO is effective on the date it is filed with the RHC and the penalty due date is calculated from that date.

If you have any questions, please feel free to contact me at (404) 562-9540. Thank you for your cooperation in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Karen B. Singer".

Karen B. Singer
Associate Regional Counsel
Office of Environmental Accountability

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

IN THE MATTER OF:)
)
High Performance Systems, Inc.)
1201 American Superior Boulevard)
Winter Haven, Florida 33880)
)
EPA ID No.: FLD 980 844 930)
)
Respondent)
_____)

) Docket Number: RCRA-04-2013-4002(b)
)
) Proceeding under Section 3008(a) of the
) Resource Conservation and Recovery
) Act, 42 U.S.C. § 6928(a)
)
)
)
)
)

2013 JUN 25 PM 12: 55
HEATHER CLERK
RECEIVED
EPA REGION IV

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 Chapter 403 of the Florida Statutes (Fla. Stat.), Fla. Stat. §§ 403.702 *et seq.* (Subtitle C of RCRA, 42 U.S.C. §§ 6921-6939(e)). This action seeks the imposition of civil penalties pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for alleged violations of Fla. Stat. §§ 403.702 *et seq.*, and the regulations promulgated pursuant thereto and set forth at Florida Administrative Code Annotated Rules (Fla. Admin. Code Ann. r.) 62-730 and 62-710 (Title 40 of the Code of Federal Regulations (40 C.F.R.) Parts 260 through 270, 273 and 279), as outlined herein.
2. 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, 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).
3. The parties 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), the parties 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, RCRA and OPA Enforcement and Compliance Branch, RCRA Division, Region 4, United States Environmental Protection Agency (EPA).
5. Respondent is High Performance Systems, Inc., a company incorporated under the laws of the State of Florida, which owns and operates a facility in Winter Haven, Florida.

III. PRELIMINARY STATEMENTS

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the State of Florida has received final authorization from the EPA to carry out a hazardous waste program in lieu of the federal program set forth in RCRA. The requirements of the Florida authorized program are found at Fla. Stat. §§ 403.702 et seq. and Fla. Admin. Code Ann. r. 62-730 and 62-710.
7. Pursuant to Section 3006(g) of RCRA, 42 U.S.C. § 6926(g), the requirements established by the Hazardous and Solid Waste Amendments of 1984 (HSWA), Pub. L. 98-616, are immediately effective in all states regardless of their authorization status and are implemented by the EPA until a state is granted final authorization with respect to those requirements. The State of Florida has received final authorization for certain portions of HSWA.
8. Although the EPA has granted the State of Florida 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) of RCRA, 42 U.S.C. § 6928(a), to address violations of the requirements of the authorized state program. This authority is exercised by the EPA in the manner set forth in the Memorandum of Agreement between the EPA and the State of Florida.
9. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), Complainant has given written notice of this action to the State of Florida before the issuance of this CA/FO.
10. As the State of Florida's authorized hazardous waste program operates in lieu of the federal RCRA program, the citations for the violations alleged herein will be to the authorized Florida program; however, for ease of reference, the federal citations will follow in parentheses.
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 requirements 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(a) of RCRA, 42 U.S.C. § 6925(a)), sets forth the requirement that facilities that treat, store, or dispose 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 and 62-730.220 (40 C.F.R. Parts 124, 264, 265 and 270).

13. 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 [40 C.F.R. Part 261] or whose act first causes a hazardous waste to become subject to regulation.”
14. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) (40 C.F.R. § 260.10), “disposal” is defined as “the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.”
15. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) (40 C.F.R. § 260.10), “treatment” is defined as “any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste . . . or so as to render such waste non-hazardous, or less hazardous . . . or reduced in volume.”
16. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) (40 C.F.R. § 260.10), “storage” is defined as “the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.”
17. 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.
18. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) (40 C.F.R. § 260.10), a “person” includes a corporation.
19. 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.
20. 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.
21. 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 is not excluded from regulation as a hazardous waste under 40 C.F.R. § 261.4(b), and it meets any of the criteria specified in 40 C.F.R. § 261.3(a)(2).
22. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) (40 C.F.R. § 261.20), solid wastes not excluded for regulation as a hazardous waste under 40 C.F.R. § 261.4(b) that exhibit any of the characteristics identified in 40 C.F.R. §§ 261.21 through 261.24 are characteristic hazardous wastes, and are provided with the EPA Hazardous Waste Numbers D001 through D043.

23. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) (40 C.F.R. § 261.30), a solid waste is a hazardous waste if it is listed in 40 C.F.R. Part 261, Subpart D, and is not otherwise excluded by 40 C.F.R. § 260.22.
24. 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 more of hazardous waste per month may accumulate hazardous waste on-site for 90 days or less, without a permit or interim status, provided that the generator complies with the management requirements of Fla. Admin. Code Ann. r. 62-730.160(1) (40 C.F.R. § 262.34(a)(1)-(4)) (hereinafter referred to as the “Large Quantity Generator (LQG) permit exemption”).
25. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) (40 C.F.R. § 262.34(a)(2)), a condition of the LQG permit exemption, the date upon which each period of accumulation begins, must be clearly marked and visible for inspection on each container.
26. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) (40 C.F.R. § 262.34(a)(3)), a condition of the LQG permit exemption, generators of hazardous waste must label or mark each hazardous waste container with the words “Hazardous Waste.”
27. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) (40 C.F.R. § 262.34(a)(4)), a condition of the LQG permit exemption, generators must comply with Fla. Admin. Code Ann. r. 62-730.180(2) (40 C.F.R. § 265.52(d)), which requires that a generator’s Contingency Plan must list the names, addresses, and phone numbers of all persons qualified to act as emergency coordinator, and that this list must be kept up to date.
28. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) (40 C.F.R. § 262.34(c)), a generator may accumulate as much as 55 gallons of hazardous waste, or one quart of acutely hazardous waste, in containers at or near the point of generation where the wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or interim status, and without complying with Fla. Admin. Code Ann. r. 62-730.160(1) (40 C.F.R. § 262.34(a)), provided that the generator complies with the management requirements of Fla. Admin. Code Ann. r. 62-730.160(1) (40 C.F.R. § 262.34(c)(1)(i)-(ii)) (hereinafter referred to as the “Satellite Accumulation Area (SAA) permit exemption”).
29. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) (40 C.F.R. § 262.34(c)(1)(i)), a condition of the SAA permit exemption, generators must comply with Fla. Admin. Code Ann. r. 62-730.180(2) (40 C.F.R. § 265.173(a)), which requires that containers holding hazardous waste must always be closed during storage except when it is necessary to add or remove wastes.
30. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) (40 C.F.R. § 262.32(c)(1)(ii)), a condition of the SAA permit exemption, generators must mark their containers with the words “Hazardous Waste” or with other words that identify the contents of the containers.

IV. EPA ALLEGATIONS AND DETERMINATIONS

31. Respondent is a “person” as defined in Fla. Admin. Code Ann. r. 62-730.020(1) (40 C.F.R. § 260.10).
32. Respondent is the “owner” and “operator” of a “facility” located at 1201 American Superior Boulevard, Winter Haven, Florida, as those terms are defined in Fla. Admin. Code Ann. r. 62-730.020(1) (40 C.F.R. § 260.10).
33. Respondent provides painting/coating services for aluminum and steel products. Its specialty is coating aluminum curtain walls for high-rise building construction. The facility has approximately 120,000 square feet under roof in Winter Haven, Florida.
34. On February 25, 2008, January 22, 2010, and January 26, 2010, Respondent notified the Florida Department of Environmental Protection (FDEP) of its activities at the facility as an LQG of hazardous waste because it generates 1,000 kilograms or more of hazardous waste or greater than one kilogram of acute hazardous waste, per calendar month.
35. Respondent generates wastes that are “solid wastes” and “hazardous wastes” as defined in Fla. Admin. Code Ann. r. 62-730.030(1) (40 C.F.R. §§ 261.2 and 261.3).
36. Respondent’s operations encompass painting/coating services for aluminum and steel products which generate hazardous waste streams. Respondent generates characteristic hazardous wastes with the waste codes D001 and D007 and listed hazardous wastes with the waste codes F003, F005, and F019.
37. On December 6, 2011, a representative of the EPA and representatives of the FDEP performed a RCRA Compliance Evaluation Inspection (CEI) of Respondent’s facility. The findings of the CEI were documented in the February 6, 2012, RCRA Inspection Report.
38. At the time of the CEI, the inspectors observed that Respondent had been storing three cubic-yard bags of F019 waste and two 55-gallon containers of spent acetone line flush (D001, F003, F005) hazardous waste in the less than 90-day hazardous waste container storage area for longer than 90 days.
39. The EPA therefore alleges that Respondent violated Fla. Stat. § 403.722 (Section 3005 of RCRA, 42 U.S.C. § 6925), storing hazardous waste without a permit or interim status, because it failed to meet a requirement of the LQG permit exemption. Respondent stored certain containers of hazardous waste for longer than 90 days, which is prohibited by Fla. Admin. Code Ann. r. 62-730.160(1) (40 C.F.R. § 262.34(a)).
40. At the time of the CEI, the inspectors observed that Respondent failed to keep a 55-gallon satellite accumulation container of hazardous waste acetone flush (D001/F003/F005) next to the paint mixing area closed when waste was not being added or removed.

41. The EPA therefore alleges that Respondent violated Fla. Stat. § 403.722 (Section 3005 of RCRA, 42 U.S.C. § 6925), storing hazardous waste without a permit or interim status, because it failed to meet a requirement of the SAA permit exemption provided in Fla. Admin. Code Ann. r. 62-730.160(1) (40 C.F.R. § 262.34(c)(1)(i)). That provision requires compliance with Fla. Admin. Code Ann. r. 62-730.180(2) (40 C.F.R. § 265.173(a)), which requires that containers holding hazardous waste must always be closed during storage except when it is necessary to add or remove wastes.

42. At the time of the CEI, the inspectors observed that Respondent failed to label the 55-gallon satellite accumulation container of hazardous waste acetone flush next to the paint mixing area with the words "Hazardous Waste" or other words to correctly identify the contents of the container.

43. The EPA therefore alleges that Respondent violated Fla. Stat. § 403.722 (Section 3005 of RCRA, 42 U.S.C. § 6925), storing hazardous waste without a permit or interim status. Respondent failed to meet a requirement for the SAA permit exemption, provided in Fla. Admin. Code Ann. r. 62-730.160(1) (40 C.F.R. § 262.34(c)(1)(ii)), that generators mark their containers with the words "Hazardous Waste" or with other words that identify the contents of the containers.

44. At the time of the CEI, the inspectors observed that Respondent failed to label the super sack in a Gaylord box storing F019 filter cake at the waste water treatment area with the accumulation start date. The date upon which each period of accumulation begins was not clearly marked and visible for inspection on the super sack. At the time of the inspection, the label for the container was lying on a nearby table.

45. The EPA therefore alleges that Respondent violated Fla. Stat. § 403.722 (Section 3005 of RCRA, 42 U.S.C. § 6925), storing hazardous waste without a permit or interim status, because it failed to meet the requirements of the LQG permit exemption provided in Fla. Admin. Code Ann. r. 62-730.160(1) (40 C.F.R. § 262.34(a)(2)). The provision requires that the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container.

46. At the time of the CEI, the inspectors observed that Respondent failed to label the super sack in a Gaylord box storing F019 filter cake at the waste water treatment area with the words "Hazardous Waste." At the time of the inspection, the label for the container was lying on a nearby table.

47. The EPA therefore alleges that Respondent violated Fla. Stat. § 403.722 (Section 3005 of RCRA, 42 U.S.C. § 6925), storing hazardous waste without a permit or interim status, by failing to meet the requirements of the LQG permit exemption provided in Fla. Admin. Code Ann. r. 62-730.160(1) (40 C.F.R. § 262.34(a)(3)). That provision requires that while hazardous waste is being accumulated on-site, each container and tank is labeled or marked clearly with the words, "Hazardous Waste."

48. At the time of the CEI, Respondent's Contingency Plan did not have up-to-date information regarding the list of emergency contacts. This list included personnel who no longer worked at the facility.

49. The EPA therefore alleges that Respondent violated Fla. Stat. § 403.722 (Section 3005 of RCRA, 42 U.S.C. § 6925), storing hazardous waste without a permit or interim status, because it failed to meet a requirement of the LQG permit exemption provided in Fla. Admin. Code Ann. r. 62-730.160(1) (40 C.F.R. § 262.34(a)(4)), which requires compliance with Fla. Admin. Code r. 62-730.180(2) (40 C.F.R. § 265.52(d)). That provision requires that a generator's Contingency Plan list the names, addresses, and phone numbers of all persons qualified to act as emergency coordinator, and that this list must be kept up to date.

50. At the time of the CEI, the facility training instructor did not have adequate training documentation. The facility was unable to show documentation of 2010 or 2011 training during the CEI. The facility conducted its 2011 RCRA training after the CEI and before the end of calendar year 2011. Subsequent to the CEI, Respondent was unable to locate records for 2010 annual RCRA training. The training given in 2011 was conducted by the instructor who did not have adequate training documentation.

51. The EPA therefore alleges that Respondent violated Fla. Stat. § 403.722 (Section 3005 of RCRA, 42 U.S.C. § 6925), storing hazardous waste without a permit or interim status, when it failed to meet a requirement of the LQG permit exemption provided in Fla. Admin. Code Ann. r. 62-730.160(1) (40 C.F.R. § 262.34(a)(4)), which requires compliance with Fla. Admin. Code r. 62-730.180(2) (40 C.F.R. §§ 265.16(a)(2) and 265.16(c)). That provision requires that the training program is directed by a person trained in hazardous waste management procedures and include instruction which teaches facility personnel hazardous waste management procedures relevant to the position in which they are employed and that facility personnel must take part in an annual review of the initial required training.

V. TERMS OF AGREEMENT

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

52. 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.

53. Respondent neither admits nor denies the factual allegations and determinations set out in this CA/FO.

54. For the purposes of this CA/FO, Respondent waives its right to contest the allegations and its right to appeal the proposed Final Order accompanying the Consent Agreement.

55. 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.

56. 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.

57. For the purposes of this CA/FO, 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.

58. 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.

59. The parties agree that compliance with the terms of this CA/FO shall resolve all of Respondent's liability for civil penalties for the violations and facts stipulated to in this CA/FO.

60. Each party will pay its own costs and attorney's fees.

VI. DEMONSTRATION OF COMPLIANCE

61. Respondent, by signing this CA/FO, certifies that it is currently in compliance with RCRA and the authorized Florida hazardous waste program.

VII. PAYMENT OF CIVIL PENALTY

62. Respondent consents to the payment of a civil penalty in the amount of **FIFTEEN THOUSAND DOLLARS (\$15,000)**, payable within sixty (60) calendar days of the effective date of this CA/FO.

63. Payment shall be made by cashier's check, certified check, by electronic funds transfer (EFT), or by Automated Clearing House (ACH) (also known as REX or remittance express). If paying by check, the check shall be payable to: **Treasurer, United States of America**, and the facility name and docket number for this matter shall be referenced on the face of the check. If Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

United States Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

If Respondent sends payment by non-U.S. Postal express mail delivery, the payment shall be sent to:

1005 Convention Plaza
SL-MO-C2-GL
St. Louis, Missouri 63101
(314) 418-4087

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:

PNC Bank
ABA: 051036706
Account Number: 310006
CTX Format Transaction Code 22 – checking
Environmental Protection Agency
808 17th Street, N.W.
Washington, D.C. 20074
Contact: Jesse White
(301) 887-6548

Respondent shall submit a copy of each payment to the following addressees:

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

and to:

Larry Lamberth, Chief
South Enforcement and Compliance Section
RCRA and OPA Enforcement and Compliance Branch
RCRA Division
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8909

64. 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 sixty (60) calendar days after the Effective Date of this CAFO. 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 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 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 \$15.00 on any late payment, with an additional charge of \$15.00 for each subsequent 30 calendar-day period over which an unpaid balance remains.
- c. Non-Payment Penalty. On any portion of a civil penalty more than ninety (90) calendar days past due, Respondent must pay a non-payment penalty of six percent 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).

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

VIII. RESERVATION OF RIGHTS

65. 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 health or the environment.

66. Complainant reserves the right to take enforcement action against Respondent for any future violations of RCRA and its implementing regulations and to enforce the terms and conditions of this CA/FO.

67. 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 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.

68. 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.

X. PARTIES BOUND

69. This CA/FO shall be binding upon the parties and their successors and assigns.

70. 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.

71. 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.

XI. SERVICE OF DOCUMENTS

72. A copy of any documents that Respondent files in this action shall be sent to the following attorney who represents the EPA in this matter and who is authorized to receive service for the EPA in the proceeding:

Karen Singer
Associate Regional Counsel
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8909
singer.karen@epa.gov

73. A copy of any documents that Complainant files in this action shall be sent to the following individual who represents Respondent in this matter and who is authorized to receive service for Respondent in this proceeding:

Mr. John Taylor
Executive Vice President/Technical Services
High Performance Systems, Inc.
1201 American Superior Boulevard
Winter Haven, Florida 33880

XII. SEVERABILITY

74. 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.

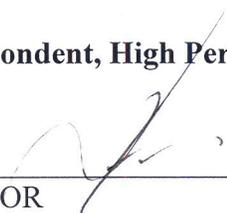
XIII. EFFECTIVE DATE

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

In the Matter of High Performance Systems, Inc., Docket No. RCRA-04-2013-4002(b):

AGREED AND CONSENTED TO:

For the Respondent, High Performance Systems, Inc.

By: 
JOHN TAYLOR
Executive Vice President/Technical Services
High Performance Systems, Inc.

Dated: 05/22/13

For the United States Environmental Protection Agency

By: 
César A. Zapata, Chief
RCRA and OPA Enforcement
and Compliance Branch
RCRA Division

Dated: 06/24/13

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

IN THE MATTER OF:) Docket Number: RCRA-04-2013-4002(b)
)
High Performance Systems, Inc.) Proceeding under Section 3008(a) of the
1201 American Superior Boulevard) Resource Conservation and
Winter Haven, Florida 33880) Recovery Act, 42 U.S.C. § 6928(a)
)
)
EPA ID No.: FLD 980 844 930)
)
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 25 day of June, 2013.

BY: Susan B. Schub
Susan B. Schub
Regional Judicial Officer
United States Environmental Protection Agency, 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 High Performance Systems, Inc., Winter Haven, Florida Docket Number: RCRA-04-2013-4002(b), on 6-25, 2013, and on 6-25 2013, served copies on the parties listed below in the manner indicated:

Karen Singer
Associate Regional Counsel
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

(Via EPA's internal mail)

Alan Newman
RCRA and OPA Enforcement and Compliance Branch
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

(Via EPA's internal mail)

Quantindra Smith
RCRA and OPA Enforcement and Compliance Branch
U.S. EPA - Region 4
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(Via EPA's internal mail)

Mr. John Taylor
Executive Vice President/Technical Services
High Performance Systems, Inc.
1201 American Superior Boulevard
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(Certified Mail, Return Receipt
Requested)

Date: 6-25-13



Patricia Bullock
Regional Hearing Clerk
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