



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

July 30, 2007

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Michael J. McMahon
President
Coating Systems, Inc.
4618 Old Louisville Road
Garden City, Georgia 31418

SUBJ: In the Matter of Coating Systems, Inc.
Docket No.: RCRA-04-2007-4002(b)

Dear Mr. McMahon:

Enclosed is a copy of the Consent Agreement and Final Order (CA/FO) that resolves the Resource Conservation and Recovery Act matter for your company. The CA/FO has been filed with the Regional Hearing Clerk and is effective on today's date. Please note that in accordance with paragraph 32, the company is required to pay the civil penalty of \$12,000 within 30 days of this date.

If you have any questions, please call me at 404-562-9567.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael T. Newton".

Michael T. Newton
Associate Regional Counsel

Enclosure

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)
)
Coating Systems, Inc.)
4618 Old Louisville Road)
Garden City, Georgia 31418)
)
EPA ID No.: GAR 000 022 558)
)
)
Respondent.)
_____)

Docket Number: RCRA-04-2007-4002(b)
Proceeding under Section 3008(a)
of the Resource Conservation and
Recovery Act, 42 U.S.C. § 6928(a)

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2007 JUL 30 PM 4:49
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). This action is seeking the imposition of civil penalties pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for violations of RCRA and regulations promulgated pursuant thereto and set forth at Title 40 of the Code of Federal Regulations (CFR), Parts 260 through 270; and the Georgia Hazardous Waste Management Act (GHWMA), § 12-8-60 through § 12-8-83, of the Official Code of Georgia Annotated (OCGA) and regulations promulgated pursuant thereto and set forth in the Georgia Hazardous Waste Management Rules (GHWMR) at Chapter 391-3-11 of the Georgia Department of Natural Resources Rules.
2. The *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 CFR 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 CFR §§ 22.13(b) and 22.18(b)(2).
3. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 CFR § 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 CFR § 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, RCRA & OPA Enforcement & Compliance Branch, RCRA Division, Region 4, United States Environmental Protection Agency (EPA).
5. Respondent is Coating Systems, Inc., a corporation incorporated and doing business in the State of Georgia and located at 4618 Old Louisville Road, Garden City, Georgia 31418.

III. PRELIMINARY STATEMENTS

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), on August 21, 1984, the State of Georgia (the State) received final authorization from EPA to carry out certain portions of the State hazardous waste program in lieu of the federal program set forth in RCRA. The requirements of the authorized State program are found in the GHWMA, § 12-8-60 through § 12883, and regulations set forth at Chapter 391-3-11 of the GHWMR. For purposes of this Order, citations herein to the requirements of RCRA shall constitute a citation to the equivalent requirements of the GHWMA and citations herein to the requirements of 40 CFR Parts 124 and 260 through 268 and Part 270 shall constitute a citation to the equivalent requirements of the GHWMR. The use of the 40 CFR citations is also appropriate since the GHWMR incorporated by reference the requirements of 40 CFR Parts 124 and 260 through 268 and Part 270.
7. Although EPA has granted the State of Georgia authority to enforce its own hazardous waste program, 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). EPA exercises this authority in the manner set forth in the Memorandum of Agreement between EPA and the State of Georgia.
8. 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 of Georgia before issuance of this CA/FO.
9. Respondent is a "person" as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and 40 CFR § 260.10.
10. Respondent is the "owner" and "operator" of a "facility" located at 4618 Old Louisville Road, Garden City, Georgia as those terms are defined in 40 CFR § 260.10. (Section 391-3-11-.02 of the GHWMR)
11. Section 3002(a) of RCRA, 42 U.S.C. § 6922(a) and Section 12-8-66 of the GHWMA authorizes the regulation of facilities that generate hazardous waste. The implementing regulations for these requirements are found in 40 CFR Part 262 (Section 391-3-11-.08 of the GHWMR).
12. Section 3005 of RCRA, 42 U.S.C. § 6925 and Section 12-8-66 of the GHWMA set forth the requirement for having interim status or a permit for the treatment, storage or disposal of hazardous waste. The implementing regulations for this requirement are found in 40 CFR Parts 124 and 270 (Section 391-3-11-.11 of the GHWMR).

13. Pursuant to 40 CFR § 260.10 (Section 391-3-11-.02 of the GHWMR), a “generator” is any person, by site, whose act or process produces hazardous waste identified or listed in part 261 of this chapter or whose act first causes a hazardous waste to be subject to regulation.
14. On December 20, 2006, a representative of EPA and the Georgia Environmental Protection Division (GA EPD) performed a RCRA compliance evaluation inspection (CEI) of Respondent’s Facility.
15. During the CEI, EPA and GA EPD representatives noted the following:
 - a. Respondent did not have a permit or interim status authorizing the storage of hazardous waste at the Facility.
 - b. Respondent had generated greater than 100 but less than 1000 kilograms of hazardous waste in a month.
 - c. Respondent had containers of solid and hazardous waste for which it had not made a hazardous waste determination
 - d. Respondent had stored hazardous waste for more than 180 days.
 - e. Respondent had a hazardous waste container that was not dated, and not marked with the words “Hazardous Waste.”
 - f. Respondent had failed to inspect the hazardous waste container storage area at least weekly.
 - g. Respondent did not have any emergency communication devices in the hazardous waste storage area and the area was crowded with other containers and boxes, with no aisle space.

IV. EPA ALLEGATIONS AND DETERMINATIONS

16. Respondent generates hazardous wastes.
17. Pursuant to 40 CFR § 262.11 (Section 391-3-11-.08 of the GHWMR), a person who generates a solid waste must determine if that waste is a hazardous waste. EPA alleges that Respondent failed to make a hazardous waste determination on solid waste at its Facility and therefore violated 40 CFR § 262.11 (Section 391-3-11-.08 of the GHWMR).
18. Pursuant to 40 CFR § 262.34(d) (Section 391-3-11-.08 of the GHWMR), a generator who generates greater than 100 kilograms but less than 1000 kilograms in a calendar month may accumulate hazardous waste on-site for 180 days or less without a permit or interim status. EPA alleges that Respondent accumulated hazardous waste for greater than 180 days and therefore violated Section 3005 of RCRA, 42 U.S.C. § 6925, and the corresponding section of the GHMA, Section 12-8-66.
19. Pursuant to 40 CFR § 262.34(d)(2) (Section 391-3-11-.08 of the GHWMR), a generator who generates greater than 100 kilograms but less than 1000 kilograms in a calendar month may accumulate hazardous waste on-site for 180 days or less without a permit or interim status provided, among other things, the generator does weekly inspections of

container storage areas. EPA alleges that Respondent failed to perform weekly inspections of its container storage area and, therefore, violated Section 3005 of RCRA, 42 U.S.C. § 6925, and the corresponding section of the GHMA, Section 12-8-66.

20. Pursuant to 40 CFR § 262.34(d)(4) (Section 391-3-11-.08 of the GHWMR), a generator who generates greater than 100 kilograms but less than 1000 kilograms in a calendar month may accumulate hazardous waste on-site for 180 days or less without a permit or interim status provided, among other things, the accumulation start date and the words "Hazardous Waste" are marked on the containers. EPA alleges that Respondent failed to mark a hazardous waste container with its accumulation start date and the words "Hazardous Waste" and, therefore, violated Section 3005 of RCRA, 42 U.S.C. § 6925, and the corresponding section of the GHMA, Section 12-8-66.
21. Pursuant to 40 CFR § 262.34(d)(4) (Section 391-3-11-.08 of the GHWMR), a generator who generates greater than 100 kilograms but less than 1000 kilograms in a calendar month may accumulate hazardous waste on-site for 180 days or less without a permit or interim status provided, among other things, the facility is equipped with required emergency communication devices and that there is adequate aisle space for emergency access. EPA alleges that Respondent failed to have emergency communication devices in its hazardous waste container storage area and the area failed to have necessary aisle space and, therefore, violated Section 3005 of RCRA, 42 U.S.C. § 6925, and the corresponding section of the GHMA, Section 12-8-66.
22. EPA has determined that Respondent has corrected all the above-alleged violations.

V. TERMS OF AGREEMENT

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

23. For the purposes of this CA/FO, Respondent admits the jurisdictional allegations set out above pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928.
24. The Respondent neither admits nor denies the factual allegations set out above.
25. Respondent waives any right to contest the allegations and its right to appeal the proposed Final Order accompanying the Consent Agreement.
26. 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.
27. Respondent waives any right it may have pursuant to 40 CFR § 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.

28. 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.
29. The parties agree that compliance with the terms of this CA/FO shall resolve the violations of RCRA alleged in this CA/FO.
30. Each party will pay its own costs and attorney's fees.

PAYMENT OF CIVIL PENALTY

31. Respondent consents to the payment of a civil penalty in the amount of TWELVE THOUSAND DOLLARS (\$12,000) within 30 calendar days of the effective date of this CA/FO.
32. Payment shall be made by cashier's check, certified check, or other payment acceptable to EPA, payable to: **Treasurer, United States of America**. The facility name and the docket number for this matter shall be referenced on the face of the check. Payment shall be tendered to:

United States Environmental Protection Agency
Cincinnati Accounting Operations
Mellon Lockbox 371099M
Pittsburgh, Pennsylvania 15251-7099

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

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

and to:

Larry L. Lamberth, Acting Chief
South Enforcement & Compliance Section
RCRA and OPA Enforcement and Compliance Branch
RCRA Division
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

33. If Respondent fails to remit the civil penalty as agreed to herein, 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. 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 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 CFR § 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 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).
34. Penalties paid pursuant to this CA/FO are not deductible for federal tax purposes under 28 U.S.C. § 162(f).

VI. RESERVATION OF RIGHTS

35. 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.
36. 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.
37. 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.
38. This CA/FO may be amended or modified only by written agreement executed by both the EPA and Respondent.

[VII. Purposely Omitted.]

VIII. PARTIES BOUND

39. This CA/FO shall be binding upon 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.
40. 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.
41. 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.

IX. SERVICE OF DOCUMENTS

42. 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 the proceeding:

Michael T. Newton,
Associate Regional Counsel
OEA – 13th Floor
U.S. EPA – Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960
(404) 562-9567

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

Michael J. McMahon
President
Coating Systems, Inc.
4618 Old Louisville Road
Garden City, Georgia 31418

X. SEVERABILITY

44. 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.

XI. EFFECTIVE DATE

45. 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:

Coating Systems, Inc.

By: Michael J. McMahon
Michael J. McMahon
President

Dated: July 12, 2007

U.S. Environmental Protection Agency

By: Narindar Kumar
Narindar Kumar, Chief
RCRA & OPA Enforcement & Compliance Branch
RCRA Division

Dated: 7/19/07

In the Matter of Coating Systems, Inc.
Docket Number: RCRA-04-2007-4002(b)

CERTIFICATE OF SERVICE

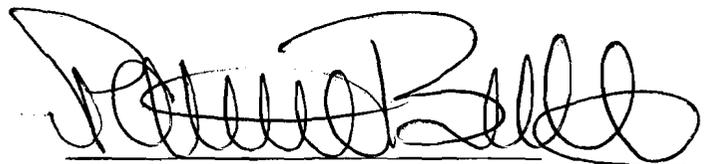
I hereby certify that on JUL 30 2007, I filed the foregoing Consent Agreement and the attached Final Order (CA/FO), in the Matter of Coating Systems, Inc., Docket Number: RCRA-04-2007-4002(b), and that on JUL 30 2007 I served a true and correct copy of the CA/FO on the parties listed below in the manner indicated:

Michael T. Newton
Associate Regional Counsel
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

(Via EPA's internal mail)

Mr. Michael J. McMahon
President
Coating Systems, Inc.
4618 Old Louisville Road
Garden City, Georgia 31418

(Via Certified Mail- Return Receipt Requested)



Patricia A. Bullock
Regional Hearing Clerk
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, GA 30303
(404) 562-9511

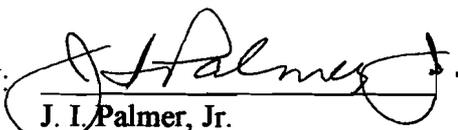
**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)	Docket Number: RCRA-04-2007-4002(b)
)	
Coating Systems, Inc.)	Proceeding under Section 3008(a)
4618 Old Louisville Road)	of the Resource Conservation and
Garden City, Georgia 31418)	Recovery Act, 42 U.S.C. § 6928(a)
)	
EPA ID No.: GAR 000 022 558)	
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 CFR 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 CFR §§ 22.18 and 22.31.

BEING AGREED, IT IS SO ORDERED this 25th day of July, 2007.

BY: 
J. I. Palmer, Jr.
Regional Administrator
EPA Region 4