

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4**

IN THE MATTER OF: ) Docket Number: RCRA-04-2008-4009(b)  
)  
Sentury Reagents ) Proceeding under Section 3008(a) of the  
Rock Hill, South Carolina ) Resource Conservation and Recovery Act,  
) 42 U.S.C. § 6928(a)  
)  
EPA ID No.: SCD 982 085 136 )  
)  
Respondent. )  
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ENVIRONMENTAL  
PROTECTION AGENCY  
REGIONAL OFFICE  
COLUMBIA, SC

**CONSENT AGREEMENT**

**I. NATURE OF THE ACTION**

1. This is a civil administrative enforcement action, ordering compliance with the requirements of Subtitle C of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§ 6921 et seq., and the South Carolina Hazardous Waste Management Regulations (SCHWMR) promulgated pursuant to Sections 48-1-100 and 44-56-30 of the 1976 South Carolina Code of Laws et seq. (LEXIS 2006). This action is seeking injunctive relief and 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 (C.F.R.), Parts 260 through 270; and Sections 48-1-100 and 44-56-30 of the South Carolina Code of Laws and regulations promulgated thereto and set forth at the SCHWMR §§ R61-79.260 - R61-79.270.
2. The *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, which govern this procedure 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).
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, RCRA and OPA Enforcement and Compliance Branch, RCRA Division, Region 4, United States Environmental Protection Agency (EPA). Respondent is Sentury Reagents, Inc. (Respondent), a corporation incorporated under the laws of the State of North Carolina. Respondent operates a facility at 2515 Commerce Dr., Rock Hill, South Carolina.

## **III. PRELIMINARY STATEMENTS**

5. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), on November 22, 1985, the South Carolina Department of Health and Environmental Control (SCDHEC) received final authorization to enforce, with the exception of the November 8, 1984, Hazardous and Solid Waste Amendments (HSWA), certain provisions of RCRA, including the non-HSWA provisions recited herein, in lieu of the federal program. Therefore, for the purpose of this CA/FO, a citation hereinafter to the requirements of 40 C.F.R. Parts 124, 270, and 260 - 264 shall also constitute a citation to the equivalent requirements of SCHWMR § R61 79.124, 79.270 and 79.260 - 264.
6. Although EPA has granted the State of South Carolina 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). This authority is exercised by EPA in the manner set forth in the Memorandum of Agreement between EPA and the State of South Carolina.
7. 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 South Carolina before issuance of this CA/FO.
8. Section 3002(a) of RCRA, 42 U.S.C. § 6922(a), requires the Administrator to promulgate regulations establishing the standards applicable to generators of hazardous waste. Pursuant to that provision, EPA promulgated 40 C.F.R. Part 262. The regulations became effective on November 19, 1980.
9. Section 3005 of RCRA, 42 U.S.C. § 6925, requires the Administrator of EPA to promulgate regulations establishing standards applicable to treatment, storage, and disposal facilities of hazardous waste. Pursuant to that provision, EPA promulgated 40 C.F.R. Parts 264/265 - Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities. The regulations became effective on May 19, 1980.
10. Respondent operates a wastewater treatment plant (WWTP) for the treatment of its process wastewater.
11. Because of the WWTP operation, Respondent generates a filter press cake (sludge).
12. Pursuant to 40 C.F.R. § 261.2 Respondent's sludge is a solid waste.

13. Pursuant to 40 C.F.R. § 262.11, a person who generates a solid waste must determine if that waste is a hazardous waste.
14. Pursuant to 40 C.F.R. § 261.20, a solid waste that exhibits any of the characteristics in 40 C.F.R. § 261.21 - 24 is a characteristic hazardous waste.
15. Pursuant to 40 C.F.R. § 261.24(a), a solid waste exhibits the characteristic of toxicity if, when using the Toxicity Characteristic Leaching Procedure (TCLP) and the required test methods, the extract from the waste contains any of the contaminants listed in Table 1 of 40 C.F.R. § 261.24 at the concentration equal to or greater than the respective value given in that table.
16. Pursuant to 40 C.F.R. § 261.24(b), a solid waste that exhibits the characteristic of toxicity for chromium is a D007 hazardous waste.
17. Pursuant to 40 C.F.R. § 261.24(b), a solid waste that exhibits the characteristic of toxicity for lead is a D008 hazardous waste.
18. Pursuant to 40 C.F.R. § 262.34(d), a generator who generates more than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month may accumulate hazardous waste on-site for 180 days or less without a permit or interim.

#### **IV. EPA ALLEGATIONS AND DETERMINATIONS**

19. Respondent is a "person" as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and 40 C.F.R. § 260.10.
20. Respondent is the "operator" of a "facility" located in Rock Hill, South Carolina, as those terms are defined in 40 C.F.R. § 260.10.
21. On March 27, 2007, EPA and SCDHEC conducted a RCRA compliance evaluation inspection (CEI) at the facility, and made the following observations:
  - a. Sentury was storing 223 55-gallon containers in an indoor area referred to as the "Green Room." Sentury had all containers labeled "Non-Hazardous Waste."
  - b. EPA sampled four of the 223 containers in the "Green Room." Analysis results indicated that the waste in three of the sampled containers exhibited the characteristic of toxicity for chromium (D007) and lead (D008).
  - c. In its hazardous waste storage area, Sentury was storing two hazardous waste 55-gallon containers for longer than 180 days.
22. Pursuant to 40 C.F.R. § 262.34(d), a generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month may accumulate hazardous waste onsite for 180 days or less without a permit or without having interim status. By storing two hazardous waste containers for longer than 180 days without a

permit or interim status, Sentury was in violation of Section 3005(e) of RCRA, 42 U.S.C. § 6928.

23. In February 2008, Sentury informed EPA that it conducted hazardous waste determinations on all of the containers that were in the "Green Room" at the time of the inspection. Sentury indicated that besides the three containers found by EPA to contain characteristic hazardous waste, only one additional container was determined to contain characteristic hazardous waste.
24. Pursuant to 40 C.F.R. § 262.11, a person who generates a solid waste must determine if that waste is a hazardous waste. Respondent has violated 40 C.F.R. § 262.11, by failing to conduct adequate hazardous waste determinations on some of the containers in the "Green Room."

#### **V. TERMS OF AGREEMENT**

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

25. 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.
26. The Respondent neither admits nor denies the factual allegations set out above.
27. Respondent waives any right to contest the allegations and its right to appeal the proposed Final Order accompanying this Consent Agreement.
28. 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.
29. 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.
30. 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.
31. The parties agree that compliance with the terms of this CA/FO shall resolve the violations of RCRA alleged in this CA/FO.
32. Each party will pay its own costs and attorney's fees.

A. PAYMENT OF CIVIL PENALTY

33. Respondent consents to the payment of a civil penalty in the amount of TWENTY-TWO THOUSAND Dollars (\$22,000), plus interest of One Thousand One Hundred Twelve Dollars and Eighty Cents (\$1,112.80) which is to be paid in accordance with the following schedule:

• \$2,500.00	on or before	July 15, 2008.
• \$2,576.60	on or before	October 15, 2008.
• \$2,576.60	on or before	January 15, 2009.
• \$2,576.60	on or before	April 15, 2009.
• \$2,576.60	on or before	July 15, 2009.
• \$2,576.60	on or before	October 15, 2009.
• \$2,576.60	on or before	January 15, 2010.
• \$2,576.60	on or before	April 15, 2010.
• \$2,576.60	on or before	July 15, 2010.

If Respondent fails to make a scheduled payment for 30 days after the due date, all subsequent payments become immediately due and payable on the 31st day from such due date.

34. Payments 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 each check. Payments shall be tendered to:

United States Environmental Protection Agency  
Fines and Penalties  
Cincinnati Financial Center  
P.O. Box 979077  
St. Louis, Missouri 631971-9000

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:

Doug McCurry, Chief  
North Section - RCRA and OPA Enforcement and Compliance Branch  
RCRA Division  
U.S. EPA - Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

35. 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 thirty (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 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 thirty (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).
36. Penalties paid pursuant to this CA/FO are not deductible for federal purposes under 28 U.S.C. § 162(f).

#### B. INJUNCTIVE RELIEF

37. Within sixty (60) calendar days of the effective date of this CA/FO, Respondent shall submit to the EPA and the SCDHEC, the data validation package for the first three (3) wastewater treatment plant sludge hazardous waste determination analyses conducted by Respondent during the first thirty (30) days after the effective date of this CA/FO. The data validation package needs to follow the requirements of EPA's document titled "Laboratory Documentation Requirements for Data Validation," dated September 2006, which is attached to this CA/FO.
38. Within forty-five (45) calendar days from the receipt of Respondent's data validation package requested in paragraph 37 of this CA/FO, EPA will provide Respondent a written statement indicating the results of the evaluation of the submitted data validation package and any applicable comments.

39. For any waste determination conducted at Respondent's laboratory that results in the waste not exhibiting a hazardous waste characteristic before EPA approves Respondent's data validation package, Respondent agrees to comply with one of the following two options:
- Corroborate with an outside laboratory the hazardous waste determination, or
  - Store the waste in a DOT approved container that is kept closed, labeled with a description of the waste and dated with the date when the waste was generated.

**C. SUBMISSIONS/EPA APPROVAL**

40. The information required to be submitted under this CA/FO shall be mailed to:

Denise Goddard  
Quality Assurance Section  
Science and Ecosystem Support Division  
980 College Station Road  
Athens, Georgia 30605-2720

Doug McCurry, Chief  
North Section - RCRA and OPA Enforcement and Compliance Branch  
RCRA Division  
U.S. EPA - Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

and to:

Mr. Pat Walker, Chief  
Bureau of Land and Waste Management  
South Carolina Department of Health and Environmental Control  
2600 Bull Street  
Columbia, South Carolina 29201

**VI. RESERVATION OF RIGHTS**

41. 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 facilities may present an imminent and substantial endangerment to human health or the environment.
42. If EPA determines that activities in compliance or noncompliance with this CA/FO have caused or may cause a release of hazardous waste or hazardous constituent(s), or a threat to human health and/or the environment, or that Respondent is not capable of undertaking any of the work ordered, EPA may order Respondent to stop further implementation of this CA/FO for such period of time as EPA determines may be needed to abate any such release

or threat and/or to undertake any action which EPA determines is necessary to abate such release or threat.

43. 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.
44. 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 facilities.
45. This CA/FO may be amended or modified only by written agreement executed by both the EPA and Respondent.

#### **VII. OTHER APPLICABLE LAWS**

46. 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.

#### **VIII. PARTIES BOUND**

47. 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.
48. 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.
49. 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**

50. 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:

Joan Redleaf Durbin, Associate Regional Counsel  
OEA – 13<sup>th</sup> Floor  
U.S. EPA – Region 4

Sam Nunn Atlanta Federal Center  
61 Forsyth Street, SW  
Atlanta, Georgia 30303  
(404) 562-9544

51. 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:

David Franchina, Esq.  
K & L Gates, L.L.P.  
Hearst Tower, 47th Floor, 214 North Tryon Street  
Charlotte, NC 28202

**X. SEVERABILITY**

52. 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**

53. 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:**

**Sentury Reagents**

By:   
President

Dated: 7/2/2008

**U.S. Environmental Protection Agency**

By: Caroline Y.F. Robinson

Dated: 7/8/08

Caroline Y.F. Robinson, Chief  
RCRA and OPA Enforcement and Compliance Branch  
RCRA Division



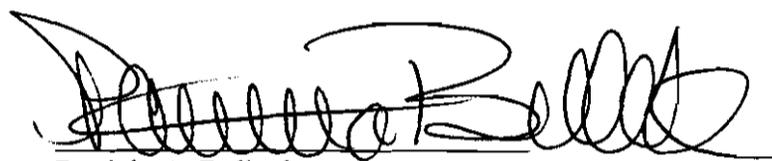
**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true and correct copy of the foregoing Consent Agreement and the attached Final Order (CA/FO), in the Matter of Sentury Reagents, Docket Number: RCRA-04-2008-4009(b) on the parties listed below in the manner indicated:

Joan Redleaf Durbin (Via EPA's internal mail)  
Associate Regional Counsel  
U.S. EPA - Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

David Franchina (Via Certified Mail- Return Receipt Requested)  
K & L Gates, L.L.P.  
Hearst Tower, 47th Floor, 214 North Tryon Street  
Charlotte, NC 28202

Date 7-15-08



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