



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

JUL 29 2008

4APT-PTSB

Certified Mail – Return Receipt Requested

Mr. Michael L. Gore
Shutts & Bowen LLP
300 South Orange Avenue, Suite 1000
Orlando, FL 32801

SUBJ: Docket No. CAA-04-2008-1523(b)
Rollins College/Insul-Coat, Inc.

Dear Mr. Gore:

Enclosed is a copy of the ratified Consent Agreement and Final Order (CAFO) in the above-referenced matter. The original CAFO has been filed with the Regional Hearing Clerk and served on the parties as directed in Section 22.6 of the Consolidated Rules of Practice, 40 C.F.R. Part 22.

As stated in Sections 17 and 18 of the CAFO, the assessed penalty of \$18,808 for Rollins College and \$20,000 for Insul-Coat, Inc., totaling \$38,808, is due within 30 days from the effective date. Please ensure that separate cashier's or certified checks are submitted and that the face of each check includes the name of the company and the docket number of this case.

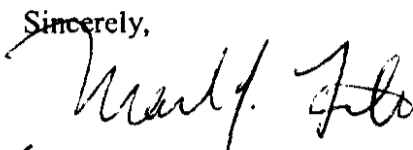
Penalty payment questions should be directed to Ms. Lori Weidner either by telephone at (513) 487-2125 or by written correspondence to her attention at U.S. Environmental Protection Agency (EPA), Cincinnati Accounting Operations address identified in the CAFO. Should you have any questions about this matter or your compliance status in the future, please call me at (404) 562-8979 or Ms. Pamela McIlvaine at (404) 562-9197.

Internet Address (URL) • <http://www.epa.gov>

Recycled/Recyclable • Printed with Vegetable Oil Based Inks on Recycled Paper (Minimum 30% Postconsumer)

Also enclosed is a copy of the October 2001 *Enforcement Alert* titled "U.S. EPA Notifying Defendants of Securities and Exchange Commission's Environmental Disclosure Requirements." This document puts you on notice of your potential duty to disclose to the Securities and Exchange Commission any environmental enforcement actions taken by EPA. Please note that the contact phone number on page three of the Notice has been changed to (202) 551-3115.

Sincerely,



for Jeannette M. Gettle
Chief
Pesticides and Toxic
Substances Branch

Enclosures



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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ATLANTA FEDERAL CENTER
61 FORSYTH STREET
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Certified Mail – Return Receipt Requested

Mr. Craig A. Minegar
Winderweedle, Haines, Ward &
Woodman, P.A.
329 Park Avenue North, 2nd Floor
Winter Park, FL 32789-7406

SUBJ: Docket No. CAA-04-2008-1523(b)
Rollins College/Insul-Coat, Inc.

Dear Mr. Minegar:

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Sincerely,



for

Jeaneanne M. Gettle
Chief
Pesticides and Toxic
Substances Branch

Enclosures

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)
)
Rollins College)
1000 Holt Avenue)
Winter Park, Florida 32789)
)
Insul-Coat, Inc.)
2049 W. Central Blvd.)
Orlando, Florida 32805)
)
Respondents.)
_____)

Docket Number: CAA-04-2008-1523(b)

2008 JUN 23 3 21 PM '08
HEARING CLERK
EPA REGION 4

CONSENT AGREEMENT AND FINAL ORDER

I. Nature of the Action

1. This is a civil penalty proceeding pursuant to Section 113(d) of the Clean Air Act (CAA), 42 U.S.C. § 7413(d), and pursuant to the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders and the Revocation/Termination or Suspension of Permits; Final Rule ("Consolidated Rules") as amended, codified at 40 C.F.R. Part 22 (64 Fed. Reg. 40138 (July 23, 1999)). Complainant is the Director of the Air, Pesticides and Toxics Management Division, Region 4, United States Environmental Protection Agency (EPA). Respondents are Rollins College and Insul-Coat, Inc. (hereinafter, "Respondents").

2. Complainant and Respondents have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 C.F.R. § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

II. Preliminary Statements

3. Asbestos is a "hazardous air pollutant" as that term is defined in Sections 112(a)(6) and 112(b)(1) of the CAA, 42 U.S.C. §§ 7412(a)(6) and 7412(b)(1), and is the subject of regulations codified at 40 C.F.R. Part 61, Subpart M, "National Emission Standard for Asbestos," promulgated pursuant to Section 112 of the CAA, 42 U.S.C. § 7412. Any person who violates Section 112 of the CAA may be assessed a penalty of up to \$25,000 for each such violation, in accordance with Section 113(d) of the CAA, 42 U.S.C. § 7413(d). For a violation occurring after January 31, 1997, and before October 1, 2004, a penalty of up to \$27,500 may be assessed pursuant to 40 C.F.R. Part 19. For a violation occurring on or after October 1, 2004, a

penalty of up to \$32,500 may be assessed pursuant to 40 C.F.R. Part 19. Each day a violation continues may constitute a separate violation.

4. The authority to take action under Section 113(d) of the CAA, 42 U.S.C. § 7413(d), is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under the CAA to the Regional Administrators by EPA Delegation 7-6-A, last updated on August 4, 1994. The Regional Administrator, Region 4, has redelegated this authority to the Director, Air, Pesticides and Toxics Management Division, by EPA Region 4 Delegation 7-6-A. Pursuant to the aforementioned delegations, the Director of the Air, Pesticides and Toxics Management Division has the authority to commence an enforcement action as the Complainant in this matter.

III. Specific Allegations

5. Respondent Rollins College (the College) owns and operates numerous buildings both on and off the College campus grounds. The address of the College is 1000 Holt Avenue in Winter Park, Florida.

6. Respondent Insul-Coat, Inc. owns and operates an asbestos abatement company located at 2049 West Central Boulevard in Orlando, Florida.

7. Respondents are each considered to be a "person" as defined in Section 302 of the CAA, 42 U.S.C. § 7602.

8. Respondent, Rollins College, hired Insul-Coat, Inc. to conduct asbestos abatement work at the college in Winter Park, Florida. Specifically, the work occurred at Strong Hall and at buildings located at 550 Osceola Avenue and 552 Osceola Avenue.

9. In October and November of 2003, Respondent Insul-Coat, Inc., under contract with Rollins College, stripped or removed asbestos-containing material including building siding, black felt paper, and thermal system insulation from ducts and pipes at two, multiple-unit, student housing buildings located at 550 and 552 Osceola Avenue in Winter Park, Florida. In connection with this work, EPA alleges that Respondents violated the following sections of the CAA and its implementing regulations as set forth below:

a. Section 112 of the CAA, 42 U.S.C. § 7412, and 40 C.F.R. § 61.145(b)(1), by failing to provide written notice of intention to demolish or renovate regulated facilities.

b. Section 112 of the CAA, 42 U.S.C. § 7412, and 40 C.F.R. § 61.150(b) by failing to deposit all asbestos-containing waste material as soon as practical at a waste disposal site operated in accordance with the provisions of 40 C.F.R. § 61.154.

10. In August, September, and October, 2003, Respondent Insul-Coat, Inc. stripped or removed asbestos-containing material including thermal system insulation from pipes and a boiler breach at Strong Hall located on the Rollins College campus in Winter Park, Florida. In

connection with this work, EPA alleges that Respondents violated the CAA and its implementing regulations as set forth below:

a. Section 112 of the CAA, 42 U.S.C. § 7412, and 40 C.F.R. § 61.145(b)(3) by failing to provide revision to renovation notification ten days in advance of work.

IV. Consent Agreement

11. For the purposes of this CAFO, Respondents admit the jurisdictional statements set out above. Respondents neither admit nor deny the factual allegations set out above.

12. Respondents waive their right to a hearing on the allegations contained herein and their right to appeal this CAFO.

13. Respondents waive their right to challenge the validity of this CAFO and the settlement of the violations alleged herein on the basis of any issue related to the Paperwork Reduction Act.

14. Respondents consent to the assessment of and agree to pay the civil penalty as set forth in this CAFO.

15. Compliance with this CAFO shall resolve the allegations of violations contained herein. This CAFO shall not otherwise affect any liability of Respondents to the United States. Other than as expressed herein, EPA does not waive any right to bring an enforcement action against Respondents for violation of any federal or state statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or to pursue criminal enforcement.

16. Complainant and Respondents agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of the CAA.

V. Final Order

17. Respondents are jointly assessed a civil penalty of Thirty-Eight Thousand Eight Hundred and Eight Dollars (\$38,808.00). The payment is due within thirty (30) days of the effective date of this CAFO.

18. Respondent Insul-Coat, Inc. shall pay Twenty Thousand Dollars (\$20,000.00) of the civil penalty. Respondent Rollins College shall pay the remaining Eighteen Thousand Eight Hundred and Eight Dollars (\$18,808.00) of the civil penalty. Respondents shall pay the penalty by forwarding two separate cashier's or certified checks, payable to "Treasurer, United States of America," to the following address:

For payment submittal by U.S. Postal Service:

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

For payment submittal by any overnight mail service (Fed Ex, UPS, DHL, etc.)

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

Each of the checks shall reference on its face the name of the Respondent and Docket Number of this CAFO.

19. At the time each check is mailed or delivered, each Respondent shall mail or deliver a separate copy of the check, and a written statement that payment has been made in accordance with this CAFO, to the following persons at the following addresses:

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

Pamela McIlvaine
Children's Health, Lead &
Asbestos Management Section
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, GA 30303;

and

Saundi Wilson
Office of Environmental Accountability
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, GA 30303.

20. For the purposes of state and federal income taxation, Respondents shall not be entitled, and agree not to attempt, to claim a deduction for any civil penalty payment made pursuant to this CAFO. Any attempt by Respondents to deduct any such payments shall constitute a violation of this CAFO.

22. Complainant and Respondents shall bear their own costs and attorney fees in this matter.

23. This CAFO shall be binding upon the Complainant and Respondents, their officers, directors, servants, employees, agents, successors and assigns.

24. The following individual represents EPA in this matter and is authorized to receive service for EPA in this proceeding:

Pamela McIlvaine
Children's Health, Lead &
Asbestos Management Section
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, GA 30303
(404) 562-9197.

25. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally bind that party to it.

The remainder of this page is intentionally left blank.

VI. Effective Date

29. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

ROLLINS COLLEGE – CAA-04-2008-1523(b)

By: George H. Herbst Date: 7/21/08

Name: GEORGE H. HERBST (Typed or Printed)

Title: VICE PRESIDENT + TREASURER (Typed or Printed)

INSUL-COAT, INC. – CAA-04-2008-1523(b)

By: [Signature] Date: 7/18/08

Name: Larry Klein (Typed or Printed)

Title: President (Typed or Printed)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

By: Carol L. Kemper for Date: 7/24/08

Beverly H. Banister
Director
Air, Pesticides, and Toxics
Management Division
Region 4

APPROVED AND SO ORDERED this 29th day of July, 2008

By: Susan B. Schub
Susan B. Schub
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that on the date set out below, I filed the original and one copy of the foregoing Consent Agreement and Final Order and served a true and correct copy of the foregoing Consent Agreement and Final Order, in the Matter of: Rollins College/Insul-Coat, Inc., Docket Number: CAA-04-2008-1523(b), to the addressees listed below.

Mr. Craig A. Minegar
Winderweedle, Haines, Ward &
Woodman, P.A.
329 Park Avenue North, 2nd Floor
Winter Park, FL 32789-7406

(via Certified Mail, Return Receipt Requested)
(Rollins Attorney)

Mr. Michael L. Gore
Shutts & Bowen LLP
300 South Orange Avenue, Suite 1000
Orlando, FL 32801

(via Certified Mail, Return Receipt Requested)
(Insul-Coat Attorney)

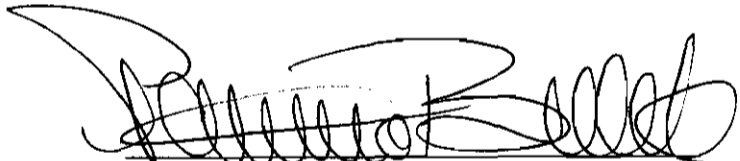
Pamela McIlvaine
Children's Health, Lead and Asbestos
Management Section
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, GA 30303

(via EPA's internal mail)

Robert Caplan, Attorney
Office of Environmental Accountability
U.S. EPA, Region 4
61 Forsyth St., SW
Atlanta, GA 30303

(via EPA's internal mail)

Date: 7-29-08



Patricia A. Bullock, Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
Atlanta Federal Center
61 Forsyth St., SW
Atlanta, GA 30303
(404) 562-9511

EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

TO BE COMPLETED BY THE ORIGINATING OFFICE:

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Saundi Wilson on 7/28/08
(Name) (Date)

in the Region 4, ORC, OEA at (404) 562-9504
(Office) (Telephone Number)

- | | |
|--------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> Non-SF Judicial Order/Consent Decree
USAO COLLECTS | <input checked="" type="checkbox"/> Administrative Order/Consent Agreement
FMO COLLECTS PAYMENT |
| <input type="checkbox"/> SF Judicial Order/Consent Decree
DOJ COLLECTS | <input type="checkbox"/> Oversight Billing - Cost Package required:
Sent with bill |
| <input type="checkbox"/> Other Receivable | <input type="checkbox"/> Not sent with bill |
| <input type="checkbox"/> This is an original debt | <input type="checkbox"/> Oversight Billing - Cost Package not required |
| | <input type="checkbox"/> This is a modification |

PAYEE: Rollins College / Insul-Coat Inc
(Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ Rollins - 18,808 / Insul-Coat - 20,000 = \$38,808
(If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: CAA 04 2008 1523(b)

The Site Specific Superfund Account Number: _____

The Designated Regional/Headquarters Program Office: _____

The IFMS Accounts Receivable Control Number is: _____ Date _____

If you have any questions, please call: _____ of the Financial Management Section at: _____

DISTRIBUTION:

- A. **JUDICIAL ORDERS:** Copies of this form with an attached copy of the front page of the **FINAL JUDICIAL ORDER** should be mailed to:
- | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| 1. Debt Tracking Officer
Environmental Enforcement Section
Department of Justice RM 1647
P.O. Box 7611, Benjamin Franklin Station
Washington, D.C. 20044 | 2. Originating Office (EAD) |
| | 3. Designated Program Office |
- B. **ADMINISTRATIVE ORDERS:** Copies of this form with an attached copy of the front page of the Administrative Order should be to:
- | | |
|---------------------------|------------------------------|
| 1. Originating Office | 3. Designated Program Office |
| 2. Regional Hearing Clerk | 4. Regional Counsel (EAD) |