



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

FEB 16 2012

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Barry M. Reynolds
Chief Financial Officer
Sumter Coatings, Inc.
2410 Highway 15 South
Sumter, SC 29150-9696

Re: Sumter Coatings, Inc.
Consent Agreement and Final Order, Docket Number: RCRA-04-2012-4001(b)

Dear Mr. Reynolds:

Enclosed is a copy of the fully executed Consent Agreement and Final Order (CA/FO) as filed with the Regional Hearing Clerk (RHC) in the above referenced matter. The CA/FO was effective upon filing with the RHC and payment of the civil penalty is to be paid in accordance with the following schedule, calculated from the effective date:

- \$6,935.23 within thirty (30) calendar days of the effective date of this CA/FO
- \$6,935.23 on or before April 15, 2012
- \$6,935.23 on or before July 15, 2012
- \$6,935.23 on or before October 15, 2012
- \$6,935.23 on or before January 15, 2013
- \$6,935.23 on or before April 15, 2013
- \$6,935.23 on or before July 15, 2013
- \$6,935.23 on or before October 15, 2013

In addition to the payment of a civil penalty, the CA/FO also requires Sumter Coatings, Inc. (Sumter) to develop a personnel training program consistent with the requirements described in S.C. Code Ann. Regs. 61-79.265.16 [40 C.F.R. § 265.16], to develop a schedule for implementation of the personnel training program and to identify which facility employees require training. Lastly, within sixty (60) days of the effective date of the CA/FO, a representative of the company must submit a signed certification statement to the U.S. Environmental Protection Agency, care of Larry Lamberth, at the address below:

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

Also enclosed is a copy of a document titled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts Sumter on notice of its potential duty to disclose to the Securities and Exchange Commission any environmental actions taken by the EPA.

If you have any questions, please feel free to contact Nacha Dixit, Assistant Regional Counsel, at (404) 562-9441.

Sincerely,

A handwritten signature in black ink, appearing to read "César Zapata", with a horizontal line extending to the right.

César Zapata, Chief
RCRA and OPA Enforcement and Compliance Branch
RCRA Division

Enclosures

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

IN THE MATTER OF:)
)
Sumter Coatings Incorporated)
2410 Highway 15 South)
Sumter, South Carolina 29154)
EPA ID No.: SCR000003848)
)
Respondent)
_____)

DOCKET NO.: RCRA-04-2012-4000(b)
Proceeding Under Section 3008(a) of the
Resource Conservation and Recovery Act
42 U.S.C. § 6928(a)

RECEIVED
EPA REGION IV
2012 FEB 16 AM 10:38
HEARINGS CLERK

CONSENT AGREEMENT

I. NATURE OF THE ACTION

1. This is a civil administrative enforcement action, ordering compliance with the requirements of the South Carolina Hazardous Waste Management Act, S.C. Code Ann. § 44-56-10 et seq., the South Carolina Pollution Control Act, S.C. Code Ann. § 48-1-10 et seq., [collectively, Subtitle C of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§ 6921-6939f], and the South Carolina Hazardous Waste Management Regulations (SCHWMR) promulgated pursuant thereto and set forth at S.C. Code Ann. Regs. 61-79.260 through 61-79.270 [Title 40 of the Code of Federal Regulations (C.F.R.), Parts 260 through 270]. This action seeks injunctive relief and the imposition of civil penalties pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for violations of S.C. Code Ann. §§ 48-1-10 et seq. and 44-56-30 et seq. [Section 3005 of RCRA, 42 U.S.C. § 6925] and S.C. Code Ann. Regs. 61-79.260 through 61-79.270 [40 C.F.R. Parts 260 through 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 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).
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).

5. Respondent is Sumter Coatings, Inc., a corporation incorporated under the laws of South Carolina. The business is located at 2410 Highway 15 South, Sumter, South Carolina (Facility).

III. PRELIMINARY STATEMENTS

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the South Carolina Department of Health and Environmental Control (SCDHEC) received 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 the South Carolina Hazardous Waste Management Act, S.C. Code Ann. § 44-56-10 et seq., the South Carolina Pollution Control Act, S.C. Code Ann. § 48-1-100 et seq., and the SCHWMR, S.C. Code Ann. Regs. 61-79.260 through 61-79.270.
7. Although the EPA has granted the State of South Carolina 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 of South Carolina.
8. As the authorized provisions of South Carolina's hazardous waste program operate in lieu of the federal RCRA program, the citations for the violations of those authorized provisions alleged herein will be to the authorized South Carolina program; however, for ease of reference, the federal citations will follow in brackets.
9. 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.
10. Section 44-56-30 of the South Carolina Code of Laws [Section 3002 of RCRA, 42 U.S.C. § 6922], requires the promulgation of standards applicable to generators of hazardous waste. The implementing regulations for these standards are found in S.C. Code Ann. Regs. 61-79.262 [40 C.F.R. Part 262].
11. Section 44-56-60 of the South Carolina Code of Laws [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 S.C. Code Ann. Regs. 61-79.264 et seq. and 61-79.265 et seq. [40 C.F.R. Parts 264 and 265].
12. Pursuant to S.C. Code Ann. Regs. 61-79.261.2 [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.
13. Pursuant to S.C. Code Ann. Regs. 61-79.261.3 [40 C.F.R. § 261.3], a solid waste is a "hazardous waste" if it is not otherwise excluded from regulation as a hazardous waste by S.C. Code Ann. Regs. 61-79.261.4(b) [40 C.F.R. § 261.4(b)] and it meets any of the criteria set forth in S.C. Code Ann. Regs. 61-79.261.3(a)(2) [40 C.F.R. § 261.3(a)(2)].

14. Pursuant to S.C. Code Ann. Regs. 61-79.261.3 [40 C.F.R. § 261.3], a solid waste is a listed "hazardous waste" if it is listed in S.C. Code Ann. Regs. 61-79.261 Subpart D (40 C.F.R. Part 261, Subpart D).
15. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [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 261 [40 C.F.R. Part 261], or whose act first causes a hazardous waste to become subject to regulation."
16. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [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."
17. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], a "person" includes a corporation.
18. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [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."
19. Pursuant to S.C. Code Ann. Regs. 61-79.261.3(a)(2)(i) [40 C.F.R. § 261.3(a)(2)(i)] and S.C. Code Ann. Regs. 61-79.261.21 [40 C.F.R. § 261.21], a solid waste that exhibits the characteristic of ignitability is a hazardous waste and is identified with the EPA Hazardous Waste Number D001.
20. Pursuant to S.C. Code Ann. Regs. 61-79.261.31(a) [40 C.F.R. § 261.31(a)], a solid waste is a hazardous waste if it is listed in S.C. Code Ann. Regs. 61-79.261 Subpart D [40 C.F.R. Part 261, Subpart D], and is not otherwise excluded by S.C. Code Ann. Regs. 61-79.260.20 or S.C. Code Ann. Regs. 61-79.260.22 [40 C.F.R. §§ 260.20 or 260.22] and is listed in Appendix IX [Appendix K].
21. Pursuant to S.C. Code Ann. Regs. 61-79.261.31(a) [40 C.F.R. § 261.31(a)], non-halogenated spent solvent wastes from non-specific sources which are listed for ignitability are identified with the EPA Hazardous Waste Number F003, and non-halogenated spent solvent wastes from non-specific sources which are listed for ignitability and toxicity are identified with the EPA Hazardous Waste Number F005.
22. Pursuant to S.C. Code Ann. Regs. 61-79.261.7(a)(2) [40 C.F.R. § 261.7(a)(2)], any hazardous waste in a container that is not empty, as defined by S.C. Code Ann. Regs. 61-79.261.7(b) [40 C.F.R. § 261.7(b)], is subject to regulation under S.C. Code Ann. Regs. 61-79.261 through 266, 268, 124, and 270 [40 C.F.R. Parts 261-266, 268, 124, and 270].
23. Pursuant to S.C. Code Ann. Regs. 61-79.262.34(a) [40 C.F.R. § 262.34(a)], a generator of greater than 1,000 kilograms of hazardous waste in a calendar month may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, as required by Section 44-56-60 of the South Carolina Code of Laws [Section 3005 of RCRA, 42 U.S.C. § 6925], provided that the generator complies with the management requirements listed in

S.C. Code Ann. Regs. 61-79.262.34(a)(1)-(4) [40 C.F.R. § 262.34(a)(1)-(4)] (hereinafter referred to as the "Large Quantity Generator Permit Exemption").

24. Pursuant to S.C. Code Ann. Regs. 61-79.262.34(a)(3), a condition of the Large Quantity Generator Permit Exemption requires a facility to label or clearly mark each container accumulating hazardous waste on-site with the EPA Hazardous Waste Number(s) and the words: "Hazardous Waste - Federal laws prohibit improper disposal."
25. Pursuant to S.C. Code Ann. Regs. 61-79.262.34(a)(2) [40 C.F.R. § 262.34(a)(2)], a condition of the Large Quantity Generator Permit Exemption requires a facility to ensure that the date upon which each period of accumulation begins is clearly marked and visible on each container.
26. Pursuant to S.C. Code Ann. Regs. 61-79.262.34(a)(1)(i), which incorporates the requirements of S.C. Code Ann. Regs. 61-79.265.175(b)(1), a condition of the Large Quantity Generator Permit Exemption requires a facility to ensure that a containment system is designed and operated as follows: "A base must lie beneath the containers which is free of cracks or gaps and sufficiently impervious to contain leaks, spills, and accumulated precipitation until the collected material is detected and removed."
27. Pursuant to S.C. Code Ann. Regs. 61-79.262.34(a)(4) [40 C.F.R. § 262.34(a)(4)], which incorporates the requirements of S.C. Code Ann. Regs. 61-79.265.31 [40 C.F.R. § 265.31], a condition of the Large Quantity Generator Permit Exemption requires a facility to be maintained and operated to minimize the possibility of any unplanned release of hazardous waste or hazardous constituents to the air, soil, or surface water which could threaten human health or the environment.
28. Pursuant to S.C. Code Ann. Regs. 61-79.262.34(a)(4) [40 C.F.R. § 262.34(a)(4)], which incorporates the requirements of S.C. Code Ann. Regs. 61-79.265.35 [40 C.F.R. § 265.35], a condition of the Large Quantity Generator Permit Exemption requires the owner or operator of a facility to maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless it can be demonstrated that aisle space is not needed for any of these purposes.
29. Pursuant to S.C. Code Ann. Regs. 61-79.262.34(a)(1)(i) [40 C.F.R. § 262.34(a)(1)(i)], which incorporates the requirements of S.C. Code Ann. Regs. 61-79.265.173(a) [40 C.F.R. § 265.173(a)], a condition of the Large Quantity Generator Permit Exemption requires a facility to ensure that containers holding hazardous waste are always closed, except when it is necessary to add or remove waste.
30. Pursuant to S.C. Code Ann. Regs. 61-79.262.34(a)(1)(i) [40 C.F.R. § 262.34(a)(1)(i)], which incorporates the requirements of S.C. Code Ann. Regs. 61-79.265.174 [40 C.F.R. § 265.174], a condition of the Large Quantity Generator Permit Exemption requires the owner or operator of a facility to inspect areas where containers of hazardous waste stored at least weekly. The owner or operator must look for leaking containers and for deterioration of containers and the containment system caused by corrosion or other factors.

31. Pursuant to S.C. Code Ann. Regs. 61-79.262.34(a)(4), which incorporates the requirements of S.C. Code Ann. Regs. 61-79.265.15(d), a condition of the Large Quantity Generator Permit Exemption requires the owner or operator of a facility to record inspections in an inspection log or summary. The owner or operator must keep these records at the facility for at least three years from the date of inspection. At a minimum, these records must include the date and time of the inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs or other remedial actions.
32. Pursuant to S.C. Code Ann. Regs. 61-79.262.34(c)(1)(ii) [40 C.F.R. § 262.34(c)(1)(ii)], a condition for exemption from the requirement to obtain a permit or interim status provided in Section 44-56-60 of the South Carolina Code of Laws [Section 3005 of RCRA, 42 U.S.C. § 6925] allows a facility to accumulate as much as 55 gallons of hazardous waste in containers at or near any point of generation where wastes initially accumulate (Satellite Accumulation Containers) if the Satellite Accumulation Containers are under the control of the operator and the containers are marked either with the words "Hazardous Waste" or with other words that identify the contents of the containers.
33. Pursuant to S.C. Code Ann. Regs. 61-79.262.34(c)(1)(i) [40 C.F.R. § 262.34(c)(1)(i)], which incorporates the requirements of S.C. Code Ann. Regs. 61-79.265.173(a) [40 C.F.R. § 265.173(a)], a condition for exemption from the requirement to obtain a permit or interim status provided in Section 44-56-60 of the South Carolina Code of Laws [Section 3005 of RCRA, 42 U.S.C. § 6925] allows a facility to accumulate Satellite Accumulation Containers if the containers are under the control of the operator and the containers holding hazardous waste are always closed, except when it is necessary to add or remove waste.
34. Pursuant to S.C. Code Ann. Regs. 61-79.262.11 [40 C.F.R. § 262.11], a person who generates a solid waste must determine if that waste is a hazardous waste. The regulation requires persons who generate a solid waste, as defined in S.C. Code Ann. Regs. 61-79.261.2 [40 C.F.R. § 261.2], to determine if those wastes are hazardous wastes following the methods articulated in S.C. Code Ann. Regs. 61-79.262.11 of the [40 C.F.R. § 262.11].
35. Pursuant to S.C. Code Ann. Regs. 61-79.262.34(a)(4) [40 C.F.R. § 262.34(a)(4)], which incorporates the requirements of S.C. Code Ann. Regs. 61-79.265.16 [40 C.F.R. § 265.16], a condition of the Large Quantity Generator Permit Exemption requires a facility to develop and implement a complete personnel training program to ensure compliance with hazardous waste management regulations.
36. Pursuant to S.C. Code Ann. Regs. 61-79.262.34(a)(4) [40 C.F.R. § 262.34(a)(4)], which incorporates the requirements of S.C. Code Ann. Regs. 61-79.265.52 [40 C.F.R. § 265.52], a condition of the Large Quantity Generator Permit Exemption requires a facility to develop a contingency plan that is designed to minimize hazards to human health or the environment; to describe in its contingency plan the facility's arrangements with local authorities (e.g., police, fire, emergency response) for emergency services; and to list in its contingency plan the names, addresses, and phone numbers of emergency coordinators.
37. Pursuant to S.C. Code Ann. Regs. 61-79.262.34(a)(4) [40 C.F.R. § 262.34(a)(4)], which incorporates the requirements of S.C. Code Ann. Regs. 61-79.265.53 [40 C.F.R. § 265.53], a condition of the Large Quantity Generator Permit Exemption requires a facility to maintain at the

facility a copy of the contingency plan and to submit a copy of its contingency plan to all local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services.

38. Pursuant to S.C. Code Ann. Regs. 61-79.262.34(a)(4) [40 C.F.R. § 262.34(a)(4)], which incorporates the requirements of S.C. Code Ann. Regs. 61-79.265.37 [40 C.F.R. § 265.37], a condition of the Large Quantity Generator Permit Exemption requires a facility to attempt to make arrangements with local authorities (i.e., police, fire departments, emergency response teams, and hospitals) or to keep documentation of authorities' refusal to enter into response arrangements.

IV. EPA ALLEGATIONS AND DETERMINATIONS

39. Respondent is a "person" as defined in Section 48-1-10(1) of the South Carolina Code of Laws [Section 1004(15) of RCRA, 42 U.S.C. § 6903(15)] and S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10].
40. Respondent is the "owner/operator" of a "facility" located in Sumter, South Carolina, as those terms are defined in S.C. Code Ann. Regs. 61-79.260.10 (40 C.F.R. § 260.10).
41. Respondent manufactures paints and coatings for primarily the steel and farm implement manufacturing industries. Respondent blends raw materials onsite to create custom formulations at the Facility.
42. Respondent is a Large Quantity Generator of hazardous waste.
43. Respondent's standard procedure is to rinse tanks that formerly contained solvent-based paint coatings with a solvent mixture that contains xylene, ketone, and toluene. The resulting spent solvent or rinsate is referred to as Dirty Wash. Respondent, as a result of its solvent rinsing procedure, is a generator of D001, F003, and F005 hazardous wastes.
44. Respondent's standard procedure is to rinse tanks that formerly contained water-based coatings with water. The water-based paint rinsate is referred to as Wash Water.
45. On April 14, 2010, inspectors from the EPA and the Bureau of Land and Waste Management, South Carolina Department of Health and Environmental Control (SCDHEC) (hereinafter the Inspectors) performed a RCRA Compliance Evaluation Inspection (CEI) of Respondent's Facility. The findings of the CEI were documented in an EPA RCRA CEI report, dated August 16, 2010 and a SCDHEC CEI Report, dated January 13, 2011 (collectively CEI Reports).
46. At the time of the CEI, the Inspectors observed nine (9) 300-gallon steel containers (totes) stored in a location in the Facility's Outside Storage Area. The nine totes formerly held a spent mixture of xylene, ketone, and toluene solvent and paint waste and were not entirely empty. According to Facility personnel, the material remaining in the totes could occupy as much as 10% by volume.
47. At the time of the CEI, the Inspectors observed that the following containers throughout the Facility were not properly labeled:

- a. Sixteen (16) 330-gallon steel totes labeled as "hazardous waste" located in the Facility's Hazardous Waste Storage Area were not labeled with EPA Hazardous Waste Numbers.
 - b. Sixteen (16) 55-gallon containers of Dirty Wash accumulating in an area adjacent to the mixing tanks on the southern end of the Facility were not labeled with the words "hazardous waste," were not marked with the required EPA Hazardous Waste Numbers, and were not marked with an accumulation start date.
 - c. Numerous containers of paint waste and spent solvent mixtures of xylene, ketone, and toluene and a large oversized container utilized as a "5-gallon bucket wash" holding Dirty Wash located in the Facility's Dispersion Line Area were not labeled with the words "hazardous waste" and were not marked with the required EPA Hazardous Waste Numbers. Eleven (11) of the containers, including the 5-gallon bucket wash container, were not marked with an accumulation start date.
 - d. Fourteen (14) containers of hazardous waste located in the Facility's Shipping/Receiving Area were not labeled with the words "hazardous waste," were not marked with the required EPA Hazardous Waste Numbers, and were not marked with an accumulation start date.
 - e. Nine (9) totes located in the Facility's Outdoor Storage Area were labeled with the words "hazardous waste," were not marked with the required EPA Hazardous Waste Numbers, and were not marked with an accumulation start date.
48. The EPA therefore alleges Respondent violated Section 44-56-60 of the South Carolina Code of Laws [Section 3005 of RCRA, 42 U.S.C. § 6925] for storing hazardous waste without a permit or interim status, because Respondent failed to meet two conditions of the Large Quantity Generator Permit Exemption by not complying with S.C. Code Ann. Regs. 61-79.262.34(a)(2) and (3) [40 C.F.R. § 262.34(a)(2) and (3)].
49. At the time of the CEI, the Inspectors observed that the floor of the Facility's process building was serving as the secondary containment for: the Hazardous Waste Storage Area; the storage area adjacent to the mixing tanks; the Dispersion Line Area; and the Shipping/Receiving Area. The Inspectors also observed a concrete floor sump in the Facility's Hazardous Waste Storage Area. Both the floor and the floor sump were constructed of concrete and were not adequately sealed with a coating to be considered sufficiently impervious to contain leaks, spills, and accumulated precipitation until the collected material could be detected and removed. The lack of impervious secondary containment increased the possibility of a fire, explosion, or an unplanned sudden or non-sudden release of hazardous waste or hazardous constituents to the environment.
50. At the time of the CEI, the Inspectors observed concrete floor drains in numerous locations throughout the Facility's Mixing Tank Area. The floor drains were not adequately sealed with a coating to be considered sufficiently impervious to contain leaks, spills, and accumulated precipitation until the collected material could be detected and removed. Furthermore, it was unclear as to where the floor drains discharged any collected materials. The floor drains' lack of impervious secondary containment and the unclear discharge location increased the possibility of

a fire, explosion, or an unplanned sudden or non-sudden release of hazardous waste or hazardous constituents to the environment.

51. At the time of the CEI, the Inspectors observed that nine (9) totes of hazardous waste were located in the Outside Storage Area, which had a gravel base and did not have adequate secondary containment. The gravel base was not sufficiently impervious to contain leaks, spills, and accumulated precipitation until the collected material could be detected and removed. The lack of impervious secondary containment increased the possibility of a fire, explosion, or an unplanned sudden or non-sudden release of hazardous waste or hazardous constituents to the environment.
52. The EPA therefore alleges Respondent violated Section 44-56-60 of the South Carolina Code of Laws [Section 3005 of RCRA, 42 U.S.C. § 6925] for storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the Large Quantity Generator Permit Exemption in S.C. Code Ann. Regs. 61-79.262.34(a)(1)(i) by not complying with S.C. Code Ann. Regs. 61-79.265.175(b)(1).
53. The EPA therefore alleges Respondent violated Section 44-56-60 of the South Carolina Code of Laws [Section 3005 of RCRA, 42 U.S.C. § 6925] for storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the Large Quantity Generator Permit Exemption in S.C. Code Ann. Regs. 61-79.262.34(a)(4) [40 C.F.R. § 262.34(a)(4)] by not complying with S.C. Code Ann. Regs. 61-79.265.31 [40 C.F.R. § 265.31].
54. At the time of the CEI, the Inspectors observed containers of hazardous waste in several locations of the Facility that were not appropriately spaced to be safely inspected, or to allow the unobstructed movement of personnel, fire protection equipment, and/or spill control equipment in case of an emergency.
55. The EPA therefore alleges Respondent violated Section 44-56-60 of the South Carolina Code of Laws [Section 3005 of RCRA, 42 U.S.C. § 6925] for storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the Large Quantity Generator Permit Exemption in S.C. Code Ann. Regs. 61-79.262.34(a)(4) [40 C.F.R. § 262.34(a)(4)] by not complying with S.C. Code Ann. Regs. 61-79.265.35 [40 C.F.R. § 265.35].
56. At the time of the CEI, the Inspectors observed numerous containers of hazardous waste that were did not have lids and were open to the atmosphere. These containers included:
 - a. Numerous containers of paint waste and spent solvent mixtures of xylene, ketone, and toluene and a large oversized container utilized as a "5-gallon bucket wash" holding Dirty Wash located in the Facility's Dispersion Line Area.
 - b. One (1) 55-gallon drum with sludge like waste and dirty mop heads saturated with solvent located in the Shipping/Receiving Area.
 - c. At least three (3) totes of hazardous waste in the Outside Storage Area.
57. The EPA therefore alleges Respondent violated Section 44-56-60 of the South Carolina Code of Laws [Section 3005 of RCRA, 42 U.S.C. § 6925] for storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the Large Quantity Generator

Permit Exemption in S.C. Code Ann. Regs. 61-79.262.34(a)(1)(i) [40 C.F.R. § 262.34(a)(1)(i)] by not complying with S.C. Code Ann. Regs. 61-79.265.173(a) [40 C.F.R. § 265.173(a)].

At the time of the CEI, the Inspectors reviewed the Facility's 2010 weekly inspection log. The records failed to note the time of the weekly inspections, the name of the Facility's inspector, any notations of observations made, and any deficiencies requiring remedial action. The inspection log failed to identify any additional hazardous waste containers located outside of the Facility's less than 90-day storage area. The hazardous waste containers that were not being inspected include containers stored in areas such as the Outside Storage Area, the Mixing Tank Area, and the Shipping Receiving Area, which all stored containers of hazardous waste.

58. The EPA therefore alleges Respondent violated Section 44-56-60 of the South Carolina Code of Laws [Section 3005 of RCRA, 42 U.S.C. § 6925] for storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the Large Quantity Generator Permit Exemption in S.C. Code Ann. Regs. 61-79.262.34(a)(1)(i) [40 C.F.R. § 262.34(a)(1)(i)] by not complying with S.C. Code Ann. Regs. 61-79.265.174 [40 C.F.R. § 265.174].
59. The EPA therefore alleges Respondent violated Section 44-56-60 of the South Carolina Code of Laws [Section 3005 of RCRA, 42 U.S.C. § 6925] for storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the Large Quantity Generator Permit Exemption in S.C. Code Ann. Regs. 61-79.262.34(a)(4) [40 C.F.R. § 262.34(a)(4)] by not complying with S.C. Code Ann. Regs. 61-79.265.15(d) [40 C.F.R. § 265.15(d)].
60. At the time of the CEI, the Inspectors observed numerous Satellite Accumulation Containers that were not marked with the words "Hazardous Waste" or with other words that identified the contents of the containers. These unmarked Satellite Accumulation Containers included:
 - a. One (1) 55-gallon container located in the Aerosol Can Filling Area, which was being used to collect waste or spent paint.
 - b. Four (4) 55-gallon containers located in the Mixing Tank Area, which were being used to collect Dirty Wash as it was being generated.
 - c. Several 5-gallon containers located in the Quality Control/R&D Lab, which were being used to collect waste solvent and/or spent paint.
61. The EPA therefore alleges Respondent violated Section 44-56-60 of the South Carolina Code of Laws [Section 3005 of RCRA, 42 U.S.C. § 6925] for storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition for exemption from the requirement to obtain a permit or interim status by not complying with S.C. Code Ann. Regs. 61-79.262.34(c)(1)(ii) [40 C.F.R. § 262.34(c)(1)(ii)].
62. At the time of the CEI, the Inspectors observed that the following Satellite Accumulation Containers were open to the atmosphere:
 - a. Three (3) 5-gallon Satellite Accumulation Containers in the Facility's Aerosol Can Filling Area were open to the atmosphere.

b. Four (4) 55-gallon Satellite Accumulation Containers in the Facility's Mixing Tank Area were open to the atmosphere.

63. The EPA therefore alleges Respondent violated Section 44-56-60 of the South Carolina Code of Laws [Section 3005 of RCRA, 42 U.S.C. § 6925] for storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition for exemption from the requirement to obtain a permit or interim status provided in S.C. Code Ann. Regs. 61-79.262.34(c)(1)(i) [40 C.F.R. § 262.34(c)(1)(i)] by not complying with S.C. Code Ann. Regs. 61-79.265.173(a) [40 C.F.R. § 265.173(a)].
64. At the time of the CEI, Respondent had not made a hazardous waste determination on certain solid wastes, including two (2) dirty or spent mop heads in a solid waste container located inside the Shipping/Receiving Area and one hundred fourteen (114) 330-gallon plastic totes containing Wash Water located at the rear of the Facility's property
65. The EPA therefore alleges that Respondent is in violation of S.C. Code Ann. Regs. 61-79.262.11 [40 C.F.R. § 262.11] by failing to make a hazardous waste determination on solid waste generated at its Facility.
66. At the time of the CEI, the Inspectors reviewed Respondent's training documentation, which failed to confirm or document that introductory and annual training had been conducted. The Respondent failed to ensure that its employee training program was directed by a person with current and up-to-date training certification to train others in hazardous waste management procedures. Respondent failed to provide training to all the required personnel who handle or manage hazardous waste at the Facility.
67. The EPA therefore alleges Respondent violated Section 44-56-60 of the South Carolina Code of Laws [Section 3005 of RCRA, 42 U.S.C. § 6925] for storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the Large Quantity Generator Permit Exemption in S.C. Code Ann. Regs. 61-79.262.34(a)(4) [40 C.F.R. § 262.34(a)(4)] by not complying with S.C. Code Ann. Regs. 61-79.265.16 [40 C.F.R. § 265.16].
68. At the time of the CEI, the Inspectors reviewed the Respondent's Contingency Plan, titled "Sumter Coatings, Inc., Disaster Plan," dated October 12, 2004. The Contingency Plan did not list the Facility's Primary Emergency Coordinator and Secondary Emergency Coordinator or include addresses or telephone numbers of current employees qualified to act as emergency coordinators. The Contingency Plan did not contain documentation or correspondence relative to Respondent's arrangements and agreements with emergency responders and local hospitals
69. The EPA therefore alleges Respondent violated Section 44-56-60 of the South Carolina Code of Laws [Section 3005 of RCRA, 42 U.S.C. § 6925] for storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the Large Quantity Generator Permit Exemption in S.C. Code Ann. Regs. 61-79.262.34(a)(4) [40 C.F.R. § 262.34(a)(4)] by not complying with S.C. Code Ann. Regs. 61-79.265.52 [40 C.F.R. § 265.52].
70. The EPA therefore alleges Respondent violated Section 44-56-60 of the South Carolina Code of Laws [Section 3005 of RCRA, 42 U.S.C. § 6925] for storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the Large Quantity Generator

Permit Exemption in S.C. Code Ann. Regs. 61-79.262.34(a)(4) [40 C.F.R. § 262.34(a)(4)] by not complying with S.C. Code Ann. Regs. 61-79.265.37 [40 C.F.R. § 265.37].

71. The EPA therefore alleges Respondent violated Section 44-56-60 of the South Carolina Code of Laws [Section 3005 of RCRA, 42 U.S.C. § 6925] for storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the Large Quantity Generator Permit Exemption in S.C. Code Ann. Regs. 61-79.262.34(a)(4) [40 C.F.R. § 262.34(a)(4)] by not complying with S.C. Code Ann. Regs. 61-79.265.53 [40 C.F.R. § 265.53].

V. TERMS OF AGREEMENT

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

72. 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.
73. Respondent neither admits nor denies the factual allegations and determinations set out in this CA/FO.
74. Respondent waives any right to contest the allegations and its right to appeal the proposed Final Order accompanying the Consent Agreement.
75. 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.
76. 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.
77. 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.
78. Respondent, by signing this CA/FO, certifies that Respondent is currently in compliance with RCRA and the authorized South Carolina hazardous waste program.
79. 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.
80. Each party will pay its own costs and attorney's fees.

VI. WORK TO BE PERFORMED

81. Respondent shall develop a personnel training program consistent with the requirements described in S.C. Code Ann. Regs. 61-79.265.16 [40 C.F.R. § 265.16]. Respondent shall also develop a schedule for implementation of the personnel training program and shall identify which Facility employees require training.

82. Within 60 days of the effective date of this CA/FO, Respondent shall submit to the EPA a certification signed by Respondent's representative, which states as follows:

"I certify under penalty of law that Sumter Coatings, Inc. is now in compliance with the training requirements of S.C. Code Ann. Regs. 61-79.265.16 [40 C.F.R. § 265.16]. Specifically, I certify under penalty of law that Sumter Coatings, Inc. has developed a personnel training program; that it has developed a schedule for implementation of the personnel training program; and that it has implemented an employee training program directed by a person with current and up-to-date training certification to train others in hazardous waste management procedures."

This certification shall be sent to the EPA care of Larry Lamberth at the address below:

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

VII. PAYMENT OF CIVIL PENALTY

83. Respondent consents to the payment of a civil penalty in the amount of FIFTY-FIVE THOUSAND DOLLARS (\$55,000.00), plus interest of 1.00% per annum, which is to be paid in accordance with the following schedule:

- \$6,935.23 within thirty (30) calendar days of the effective date of this CA/FO
- \$6,935.23 on or before April 15, 2012
- \$6,935.23 on or before July 15, 2012
- \$6,935.23 on or before October 15, 2012
- \$6,935.23 on or before January 15, 2013
- \$6,935.23 on or before April 15, 2013
- \$6,935.23 on or before July 15, 2013
- \$6,935.23 on or before October 15, 2013

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.

84. Payment shall be made by cashier's check, certified check, by electronic funds transfer (EFT), or by Automated Clearhouse (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) 418-1028

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 NW
Washington, D.C. 20074
Contact: Jesse White, (301) 887-6548

85. Respondent shall submit a copy of each payment to the following addresses:

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

And to:

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

86. 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. 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).
87. Penalties paid pursuant to this CA/FO are not deductible for federal purposes under 26 U.S.C. § 162(f).

VIII. PARTIES BOUND

88. 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.
89. 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.
90. 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. RESERVATION OF RIGHTS

91. 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.
92. 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.
93. 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.
94. This CA/FO may be amended or modified only by written agreement executed by both the EPA and Respondent.

X. OTHER APPLICABLE LAWS

95. 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.

XI. SERVICE OF DOCUMENTS

96. 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:

Naeha Dixit
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) 562-9544

97. 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:

Barry M. Reynolds
Chief Financial Officer
Sumter Coatings, Inc.
2410 Highway 15 South
Sumter, South Carolina 29150-9696
(803) 481-3400 ext 14

XII. SEVERABILITY

98. 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

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

In the matter of Sumter Coating, Incorporation, Docket No. RCRA-04-2012-4001(b):

AGREED AND CONSENTED TO:

Sumter Coating, Inc.

By: Barry M Reynolds

Dated: January 31, 2012

Barry M. Reynolds
Chief Financial Officer
Sumter Coatings, Inc.

United States Environmental Protection Agency

By: Cesar A. Zapata

Dated: 02/14/12

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

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

IN THE MATTER OF:) DOCKET NO.: RCRA-04-2012-4001(b)
)
Sumter Coatings Incorporated)
2410 Highway 15 South) Proceeding Under Section 3008(a) of the
Sumter, South Carolina 29154) Resource Conservation and Recovery Act,
EPA ID No.: SCR000003848) 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 16th day of February, 2012.

BY: Susan B. Schub
Susan B. Schub
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 Sumter Coatings Inc., Facility, Docket Number: RCRA-04-2012-4001(b), and have served the parties listed below in the manner indicated:

Naeha Dixit
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)

Quantindra Smith
RCRA and OPA Enforcement and Compliance Branch
RCRA Division
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

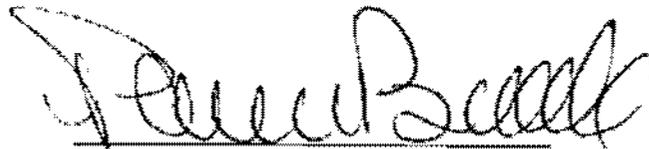
(Via EPA's electronic mail)

Barry M. Reynolds
Chief Financial Officer
Sumter Coatings, Inc.
2410 Highway 15 South
Sumter, SC 29150-9696

(Via Certified Mail - Return Receipt
Requested)

Date:

2-16-12



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