



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

JUL 27 2010

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Brooks D. Hodges III
President
Tennessee Technical Coatings Corporation
1421 Higgs Road
P.O. Box 1698
Lewisburg, Tennessee 37091-0698

RE: Tennessee Technical Coatings Corporation
Consent Agreement and Final Order (CAFO)
Docket No. RCRA-04-2010-4007(b)

Dear Mr. Hodges:

Enclosed please find a copy of the executed CAFO as filed with the Regional Hearing Clerk (RHC) in the above-referenced matter. The CAFO is effective on the date it is filed with the RHC, and the penalty due date is calculated from the effective date.

Also enclosed, please find a copy of a document entitled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts Tennessee Technical Coatings Corporation on notice of its potential duty to disclose to the Securities Exchange Commission (SEC) any environmental actions taken by the United States Environmental Protection Agency.

If you have any questions, please feel free to contact me at (404) 562-9705.

Sincerely,

A handwritten signature in black ink, appearing to read "Alfred R. Politzer".

Alfred R. Politzer
Assistant Regional Counsel
Office of Environmental Accountability

Enclosures (2)

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)	DOCKET NO.: RCRA-04-2010-4007(b)
)	
TENNESSEE TECHNICAL)	
COATINGS CORPORATION)	
1421 HIGGS ROAD)	PROCEEDING UNDER
LEWISBURG, TENNESSEE 37091)	SECTION 3008(a) OF THE RESOURCE
)	CONSERVATION AND RECOVERY
)	ACT, 42 U.S.C. § 6928(a)
EPA ID NO.: TND 089558092)	
)	
RESPONDENT)	
_____)	

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2010 JUN 27 PM 3:40

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 United States Code (U.S.C.) § 6921, *et seq.*, and Chapter 212 of the Tennessee Code Annotated (TENN. CODE ANN.). 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 the regulations promulgated pursuant thereto at Title 40 of the Code of Federal Regulations (C.F.R.), Parts 260 through 268, 270 and 279; and TENN. CODE ANN. § 68-212-101, *et seq.*, and the Tennessee regulations promulgated pursuant thereto at Chapter 1200-01-11 of the Tennessee Rules and Regulations (TENN. COMP. R. & REGS.).
2. The *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22, provide that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order (CAFO). 40 C.F.R. §§ 22.13(b) and 22.18(b)(2).
3. The parties have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to settle this action. Accordingly, before any testimony has been taken upon the pleadings and without any admission of violation or adjudication of any issue of fact or law and in accordance with 40 C.F.R. § 22.13(b), the parties have agreed to the execution of this CAFO, and Respondent agrees to comply with the terms of this CAFO.

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 Tennessee Technical Coatings Corporation, a corporation incorporated under the laws of Tennessee and doing business in the State of Tennessee. The facility is located at 1421 Higgs Road, Lewisburg, Tennessee 37091.

III. PRELIMINARY STATEMENTS

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), on February 5, 1985, the State of Tennessee received final authorization to carry out a hazardous waste program in lieu of the federal program. The requirements of the authorized state program are found in TENN. CODE ANN. § 68-212-101, *et. seq.*, and TENN. COMP. R. & REGS. 1200-01-11-.01, *et. seq.*
7. Pursuant to Section 3006(g) of RCRA, 42 U.S.C. § 6926(g), the requirements established by the Hazardous and Solid Waste Amendments of 1984 (HSWA), Pub. L. 98-616, are immediately effective in all states upon their federal effective date regardless of the state's authorization status, and are implemented by EPA until the state is granted final authorization with respect to those requirements. On December 26, 2000, Tennessee received authorization for its HSWA program.
8. Although EPA has granted Tennessee the authority to enforce its own hazardous waste program, EPA retains jurisdiction and authority to initiate an independent enforcement action, pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), to address violations of the authorized State program. EPA exercises this authority in the manner set forth in the Memorandum of Agreement between EPA and Tennessee.
9. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), Complainant gave written notice of this action to Tennessee before the issuance of this CAFO.
10. Section 3002(a) of RCRA, 42 U.S.C. § 6922(a), and TENN. CODE ANN. § 68-212-101, *et. seq.*, require the promulgation of standards applicable to generators of hazardous waste. The implementing regulations for these standards are found in 40 C.F.R. Part 262 and TENN. COMP. R. & REGS. 1200-01-11-.03.
11. Section 3004 of RCRA, 42 U.S.C. § 6924, and TENN. CODE ANN. § 68-212-101, *et. seq.*, require the promulgation of standards applicable to owners and operators of hazardous waste treatment, storage, and disposal facilities. The implementing regulations for these standards are found at 40 C.F.R. Part 264 and TENN. COMP. R. & REGS. 1200-01-11-.06.
12. Section 3005 of RCRA, 42 U.S.C. § 6925, and TENN. CODE ANN. § 68-212-101, *et. seq.*, set 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 at 40 C.F.R. Parts 264, 265, and 270, and TENN. COMP. R. & REGS. 1200-01-11-.03, 1200-01-11-.06, and 1200-01-11-.07.

13. Pursuant to 40 C.F.R. § 261.2 and TENN. COMP. R. & REGS. 1200-01-11-.02(1)(b), a “solid waste” is any discarded material that is not otherwise excluded by regulation.
14. Pursuant to 40 C.F.R. § 261.3 and TENN. COMP. R. & REGS. 1200-01-11-.02(1)(c), a solid waste is a “hazardous waste” if it is not excluded from regulation as a hazardous waste under 40 C.F.R. § 261.4(b) and TENN. COMP. R. & REGS. 1200-01-11-.02(1)(d)2, and it meets any of the criteria specified in 40 C.F.R. § 261.3(2) and TENN. COMP. R. & REGS. 1200-01-11-.02(1)(c).
15. Pursuant to 40 C.F.R. § 260.10 and TENN. COMP. R. & REGS. 1200-01-11-.01(2), a “generator” is defined as any person, by site, whose act or process produces hazardous waste identified or listed in 40 C.F.R. Part 261 and TENN. COMP. R. & REGS. 1200-01-11-.02, or whose act first causes a hazardous waste to become subject to regulation.
16. Pursuant to 40 C.F.R. § 260.10 and TENN. COMP. R. & REGS. 1200-01-11-.01(2), a “container” is defined as any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.
17. Pursuant to 40 C.F.R. § 273.9 and TENN. COMP. R. & REGS. 1200-01-11-.12(1)(b), a “universal waste” is defined as any of the following hazardous wastes that are subject to the universal waste requirements set forth in 40 C.F.R. Part 273: (1) batteries as described in 40 C.F.R. § 273.2; (2) pesticides as described in 40 C.F.R. § 273.3; (3) mercury-containing equipment as described in 40 C.F.R. § 273.4; and (4) lamps as described in 40 C.F.R. § 273.5.
18. Pursuant to 40 C.F.R. § 273.9 and TENN. COMP. R. & REGS. 1200-01-11-.12(1)(b), a “universal waste handler” is defined as: (1) a generator (as defined in 40 C.F.R. § 273.9) of universal waste; or (2) the owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates universal waste, and sends universal waste to another universal waste handler, to a destination facility, or to a foreign destination.
19. Pursuant to 40 C.F.R. § 273.9 and TENN. COMP. R. & REGS. 1200-01-11-.12(1)(b), a “small quantity handler of universal waste” is defined as a universal waste handler who does not accumulate 5,000 kilograms or more of universal wastes at any time.
20. Pursuant to 40 C.F.R. § 262.34(a) and TENN. COMP. R. & REGS. 1200-01-11-.03(4)(e)2, a generator may accumulate hazardous waste on site for 90 days or less without a permit or without having interim status provided that the generator complies with the management requirements listed in 40 C.F.R. §§ 262.34(a)(1)-(4) and TENN. COMP. R. & REGS.

1200-01-11-.03(4)(e)2(i)-(v) (hereinafter referred to as the “40 C.F.R. § 262.34(a) permit exemption”).

21. Pursuant to 40 C.F.R. § 262.34(a)(2) and TENN. COMP. R. & REGS. 1200-01-11-.03(4)(e)2(ii), a condition of the 40 C.F.R. § 262.34(a) permit exemption requires a generator to clearly mark the date accumulation begins on the container.
22. Pursuant to 40 C.F.R. § 262.34(a)(1)(i) and TENN. COMP. R. & REGS. 1200-01-11-.03(4)(e)2(i)(I), a condition of the 40 C.F.R. § 262.34(a) permit exemption requires a generator to comply with 40 C.F.R. § 265.173(a) and TENN. COMP. R. & REGS. 1200-01-11-.05(9)(d)1 (requiring the container holding the hazardous waste to be closed except when necessary to add or remove waste).
23. Pursuant to 40 C.F.R. § 262.34(a)(4) and TENN. COMP. R. & REGS. 1200-01-11-.03(4)(e)2(iv), a condition of the 40 C.F.R. § 262.34(a) permit exemption requires a generator to comply with 40 C.F.R. § 265.54(c) and TENN. COMP. R. & REGS. 1200-01-11-.05(4)(e)3 (requiring the contingency plan to be reviewed and immediately amended if the facility changes in a way that materially increases the potential for fires, explosions, or releases of hazardous waste, or changes the response necessary in an emergency).
24. Pursuant to 40 C.F.R. § 262.34(a)(4) and TENN. COMP. R. & REGS. 1200-01-11-.03(4)(e)2(iv), a condition of the 40 C.F.R. § 262.34(a) permit exemption requires a generator to comply with 40 C.F.R. § 265.16(d) and TENN. COMP. R. & REGS. 1200-01-11-.05(1)(g)4 (requiring the generator to maintain documents and records indicating the job title for each position at the facility related to hazardous waste management along with that employee’s name, and a written job description for each position specified).
25. Pursuant to 40 C.F.R. § 262.34(c)(1)(ii) and TENN. COMP. R. & REGS. 1200-01-11-.03(4)(e)5(i)(II), a generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste in containers at or near any point of generation where wastes initially accumulate (satellite accumulation area), without a permit or interim status, provided that he marks his containers either with the words “Hazardous Waste” or with other words that identify the contents of the container.
26. Pursuant to 40 C.F.R. § 273.13(d)(1) and TENN. COMP. R. & REGS. 1200-01-11-.12(2)(d)4(i)(I), a small quantity handler of universal waste must manage lamps in a way that prevents releases of any universal waste to the environment by containing any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the content of the lamps. The containers and packages must remain closed, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

27. Pursuant to 40 C.F.R. § 273.14(e) and TENN. COMP. R. & REGS. 1200-01-11-.12(2)(e)5, a small quantity handler of universal waste must clearly label or mark universal waste lamps (i.e., each lamp), or the container or package in which the lamps are contained with any one of the following phrases: “Universal Waste – Lamp(s),” “Waste Lamp(s),” or “Used Lamp(s).”
28. Pursuant to 40 C.F.R. § 273.15(a) and TENN. COMP. R. & REGS. 1200-01-11-.12(2)(f)1, a small quantity handler of universal waste may not accumulate universal waste for longer than one year from the date it was generated, or received from another handler, unless the requirements of 40 C.F.R. § 273.15(b) and TENN. COMP. R. & REGS. 1200-01-11-.12(2)(f)2 are met.
29. Pursuant to TENN. CODE ANN. § 68-212-304(a), all large and small quantity generators must complete a hazardous waste reduction plan and maintain a current copy of that plan at the generating facility.

IV. EPA ALLEGATIONS AND DETERMINATIONS

30. Respondent is a “person” as defined in 40 C.F.R. § 260.10 and TENN. COMP. R. & REGS. 1200-01-11-.01(2)(a).
31. Respondent is the “owner” and “operator” of a “facility,” as those terms are defined in 40 C.F.R. § 260.10 and TENN. COMP. R. & REGS. 1200-01-11-.01(2)(a).
32. Respondent generates waste that is a “solid waste” as defined in 40 C.F.R. § 261.2 and TENN. COMP. R. & REGS. 1200-01-11-.02(1)(b).
33. Respondent generates waste that is a “universal waste” as defined in 40 C.F.R. § 273.9 and TENN. COMP. R. & REGS. 1200-01-11-.12(1)(b).
34. Respondent is a “universal waste handler” as defined in 40 C.F.R. § 273.9 and TENN. COMP. R. & REGS. 1200-01-11-.12(1)(b).
35. Respondent is a “small quantity handler of universal waste” as defined in 40 C.F.R. § 273.9 and TENN. COMP. R. & REGS. 1200-01-11-.12(1)(b).
36. Respondent has been assigned EPA ID number TND 089558092 by the Tennessee Department of Environment and Conservation (TDEC).
37. Respondent manufactures paints and coatings for a variety of applications. Respondent uses solvents with the painting and coating applications.
38. On February 3, 2009, EPA and TDEC conducted a RCRA Compliance Evaluation Inspection (CEI) of Respondent’s facility.

39. At the time of the February 3, 2009, CEI, Respondent was storing hazardous waste in four containers that were incorrectly labeled due to human error with the beginning date of accumulation.
40. EPA therefore alleges that Respondent has violated Section 3005 of RCRA, 42 U.S.C. § 6925, and TENN. CODE ANN. § 68-212-105(4), for storing hazardous waste without a permit or interim status, because Respondent failed to meet the 40 C.F.R. §§ 262.34(a)(2) and TENN. COMP. R. & REGS. 1200-01-11-.03(4)(e)2(ii) condition of the 40 C.F.R. § 262.34(a) permit exemption.
41. At the time of the February 3, 2009, CEI, Respondent was storing universal waste (fluorescent light bulbs) in six open containers, and was therefore not managing the universal waste lamps in a way that prevented releases to the environment.
42. EPA therefore alleges that Respondent has violated 40 C.F.R. § 273.13(d)(1) and TENN. COMP. R. & REGS. 1200-01-11-.12(2)(d)4(i)(I).
43. At the time of the February 3, 2009, CEI, Respondent did not have an updated contingency plan at the facility.
44. EPA therefore alleges that Respondent has violated Section 3005 of RCRA, 42 U.S.C. § 6925, and TENN. CODE ANN. § 68-212-105(4), for storing hazardous waste without a permit or interim status, because Respondent failed to meet the 40 C.F.R. § 262.34(a)(4) and TENN. COMP. R. & REGS. 1200-01-11-.03(4)(e)2(iv) condition of the 40 C.F.R. § 262.34(a) permit exemption by not complying with 40 C.F.R. § 265.54(c) and TENN. COMP. R. & REGS. 1200-01-11-.05(4)(e)3.
45. At the time of the February 3, 2009, CEI, Respondent did not have documents or records indicating the job title or job descriptions for each position at the facility related to hazardous waste management.
46. EPA therefore alleges that Respondent has violated Section 3005 of RCRA, 42 U.S.C. § 6925, and TENN. CODE ANN. § 68-212-105(4), for storing hazardous waste without a permit or interim status, because Respondent failed to meet the 40 C.F.R. § 262.34(a)(4) and TENN. COMP. R. & REGS. 1200-01-11-.03(4)(e)2(iv) condition of the 40 C.F.R. § 262.34(a) permit exemption by not complying with 40 C.F.R. § 265.16(d) and TENN. COMP. R. & REGS. 1200-01-11-.05(1)(g)4.
47. At the time of the February 3, 2009, CEI, Respondent was storing greater than 55 gallons of hazardous waste in five containers in a satellite accumulation area.
48. EPA therefore alleges that Respondent has violated Section 3005 of RCRA, 42 U.S.C. § 6925, and TENN. CODE ANN. § 68-212-105(4), for storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition for

permit exemption found at 40 C.F.R. § 262.34(c)(1) and TENN. COMP. R. & REGS. 1200-01-11-.03(4)(e)5(i).

49. At the time of the February 3, 2009, CEI, Respondent was storing five containers of hazardous waste in a satellite accumulation area that were not labeled with the words "Hazardous Waste" or other words that identified the contents of the containers.
50. EPA therefore alleges that Respondent has violated Section 3005 of RCRA, 42 U.S.C. § 6925, and TENN. CODE ANN. § 68-212-105(4), for storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition for permit exemption found at 40 C.F.R. § 262.34(c)(1)(ii) and TENN. COMP. R. & REGS. 1200-01-11-.03(4)(e)5(i)(II).
51. At the time of the February 3, 2009, CEI, Respondent had not labeled universal waste lamps, or the container or package in which they were stored with one of the following phrases: "Universal Waste – Lamp(s)," "Waste Lamp(s)," or "Used Lamp(s)."
52. EPA therefore alleges that Respondent has violated 40 C.F.R. § 273.14(e) and TENN. COMP. R. & REGS. 1200-01-11-.12(2)(e)5.
53. At the time of the February 3, 2009, CEI, Respondent had been storing universal waste lamps for greater than one year without meeting the requirements set forth in 40 C.F.R. § 273.15(b) and TENN. COMP. R. & REGS. 1200-01-11-.12(2)(f)2.
54. EPA therefore alleges that Respondent has violated 40 C.F.R. § 273.15(a) and TENN. COMP. R. & REGS. 1200-01-11-.12(2)(f)1.
55. At the time of the February 3, 2009, CEI, Respondent did not have a current copy of a hazardous waste reduction plan.
56. EPA therefore alleges that Respondent has violated TENN. CODE ANN. § 68-212-304(a).

V. TERMS OF AGREEMENT

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

57. Within thirty (30) calendar days of receipt of the executed copy of this CAFO, Respondent shall submit to EPA and TDEC a certification signed by a duly authorized representative stating that the Facility is in compliance with RCRA and that all the violations alleged in this CAFO have been corrected.

This certification shall be as follows:

"I certify under penalty of law, to the best of my knowledge and belief that all violations

alleged in this CAFO have been corrected. All work was done under my direction or supervision according to a system designed to assure that qualified personnel implemented and completed the required tasks. This certification is based on my inquiry of the person(s) who performed the tasks, or those persons directly responsible for the person(s) who performed the tasks. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

58. The certifications required to be submitted under this CAFO shall be mailed to:

Nancy McKee, Acting Chief
North Section, RCRA and OPA Enforcement
and Compliance Branch
RCRA Division
United States Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

and to:

Mike Apple, Director
Division of Solid & Hazardous Waste Management
Tennessee Department of Environment & Conservation
5th Floor, L&C Tower
401 Church Street
Nashville, Tennessee 37243

59. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set out in the above paragraphs pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928.
60. Respondent neither admits nor denies the allegations and determinations in this CAFO.
61. Respondent waives any right to contest the allegations and its right to appeal the proposed Final Order accompanying the Consent Agreement.
62. Respondent waives its right to challenge the validity of this CAFO and the settlement of the matters addressed in this CAFO based on the Paperwork Reduction Act.
63. Respondent waives any right 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 CAFO.
64. 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 RCRA. The parties agree that

compliance with the terms of this CAFO shall resolve all of Respondent's liability for civil penalties for the violations and facts alleged and stipulated to in this CAFO.

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

VI. PAYMENT OF CIVIL PENALTY

66. Respondent consents to the payment of a civil penalty in the amount of NINE THOUSAND DOLLARS (\$9,000.00) within thirty (30) calendar days of the effective date of this CAFO.

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

If the Respondent sends payment by non-United States Postal express mail delivery, the payment shall be sent to:

United States Bank
Government Lockbox 979077
United States Environmental Protection Agency
Fines and Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, Missouri 63101
(314) 418-1028

If paying by EFT, the 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, the Respondent shall remit payment to:

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

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

Regional Hearing Clerk
United States Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

and to:

Nancy McKee, Acting Chief
North Section, RCRA and OPA Enforcement
and Compliance Branch
RCRA Division
United States Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

69. 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 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).

70. Penalties paid pursuant to this CAFO are not tax deductible under 26 U.S.C. § 162(f).

VII. PARTIES BOUND

- 71. This CAFO 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 CAFO.
- 72. 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 CAFO.
- 73. The undersigned representative of Respondent hereby certifies that she or he is fully authorized to enter into this CAFO and to execute and legally bind Respondent to it.

VIII. RESERVATION OF RIGHTS

- 74. Notwithstanding any other provision of this CAFO, 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.
- 75. 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 CAFO.
- 76. Except as expressly provided herein, nothing in this CAFO shall 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 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.

77. This CAFO may be amended only by written agreement between EPA and Respondent.

IX. OTHER APPLICABLE LAWS

78. All actions required to be taken pursuant to this CAFO 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.

X. SERVICE OF DOCUMENTS

79. 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:

Alfred Politzer
Assistant Regional Counsel
United States Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

80. 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 the proceedings:

Brooks D. Hodges III
President
Tennessee Technical Coatings Corporation
P.O. Box 1698
Lewisburg, Tennessee 37091

XI. SEVERABILITY

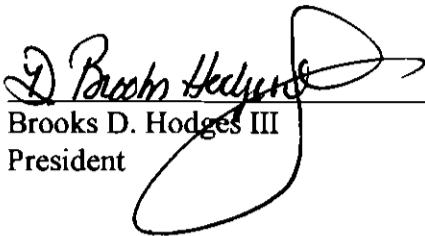
81. It is the intent of the parties that the provisions of this CAFO are severable. If any provision or authority of this CAFO or the application of this CAFO to any party or circumstances is held by any judicial or administrative authority to be invalid or unenforceable, the application of such provisions to other parties or circumstances and the remainder of the CAFO shall remain in force and shall not be affected thereby.

XII. EFFECTIVE DATE

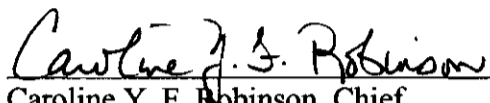
82. The effective date of this CAFO is the date it is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

Tennessee Technical Coatings Corporation

By:  Dated: June 21, 2010
Brooks D. Hodges III
President

U.S. Environmental Protection Agency

By:  Dated: June 29, 2010
Caroline Y. F. Robinson, Chief
RCRA and OPA Enforcement and Compliance Branch
RCRA Division

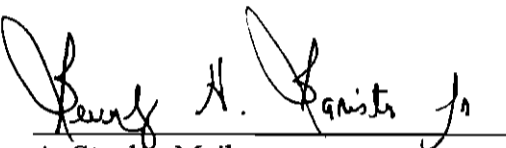
COATING CORPORATION)
1421 HIGGS ROAD)
LEWISBURG, TENNESSEE 37091)
)
EPA ID NO.: TND 089558092)
)
RESPONDENT)
_____)

PROCEEDING UNDER
SECTION 3008(a) OF THE RESOURCE
CONSERVATION AND RECOVERY
ACT, 42 U.S.C. § 6928(a)

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 20th day of JULY, 2010.

BY: 

A. Stanley Meiburg
Acting Regional Administrator
United States Environmental Protection Agency, Region 4

CERTIFICATE OF SERVICE

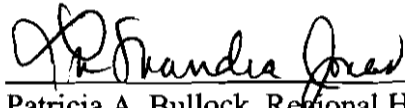
I hereby certify that I have this day filed the original and a true and correct copy of the foregoing Consent Agreement and the attached Final Order (CAFO), in the Matter of Tennessee Technical Coatings Corporation, Docket Number: RCRA-04-2010-4007(b), on July 27, 2010 2010, and on July 27 2010, served the parties listed below in the manner indicated:

Alfred Politzer, Assistant Regional Counsel (Via EPA Internal Mail)
Office of Environmental Accountability
United States Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
(404) 562-9705

Quantindra Smith (Via EPA Internal Mail)
RCRA Division
United States Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
(404) 562-8564

Brooks D. Hodges III (Via Certified Mail – Return Receipt Requested)
President
Tennessee Technical Coatings Corporation
P.O. Box 1698
Lewisburg, Tennessee 37091
(931) 359-6666

Date: July 27, 2010


for Patricia A. Bullock, Regional Hearing Clerk
United States Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
(404) 562-9511

2010 JUL 27 PM 3:40
HEARING CLERK
EPA REGION 4