



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

JUL 03 2008

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Mr. Michael Hyer  
Suncoatings, Inc.  
4701 Broadway Avenue  
Tampa, Florida 33605

SUBJECT: Suncoatings, Inc.  
Consent Agreement and Final Order  
Docket No. EPCRA-04-2008-2025(b)

Dear Mr. Hyer:

Enclosed please find an executed copy of the Consent Agreement and Final Order (CAFO) that resolves the EPCRA matter (Docket No. EPCRA-04-2008-2025(b)) involving Suncoatings, Inc. The CAFO was filed with the Regional Hearing Clerk, as required by 40 CFR Part 22 and became effective on date of filing.

Penalty payment of \$4,514.00 has been received and the U.S. Environmental Protection Agency, Region 4, Emergency Planning and Community Right-to-Know Act Enforcement Section considers this matter closed.

Also enclosed, please find a copy of the "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts you on notice of your potential duty to disclose to the Security and Exchange Commission (SEC) any environmental enforcement actions taken by the EPA. If you have any questions with regards to the SEC's environmental disclosure requirements, you may refer to the contact phone number at the bottom of the SEC Notice.

If you have any questions, please call Ms. Erika White at (404) 562-9195.

Sincerely,

Caron B. Falconer  
Chief, EPCRA Enforcement Section

Enclosures

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4

2008 JUN -3 AM 11:44  
HEARING OFFICE  
EPA REGION 4

IN THE MATTER OF: )  
 )  
Sun Coatings )  
 )  
Respondent. )  
 )

Docket Number: EPCRA-04-2008-2025(b)

CONSENT AGREEMENT AND FINAL ORDER

I. Nature of the Action

1. This is a civil penalty proceeding pursuant to Section 325 of the Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. § 11045, and pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), codified at 40 CFR Part 22. Complainant is the Director of the Air, Pesticides and Toxics Management Division, United States Environmental Protection Agency (EPA) Region 4. Respondent is Sun Coatings.

2. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 CFR § 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 CFR § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

II. Preliminary Statements

3. The authority to take action under Section 325 of EPCRA, 42 U.S.C. § 11045, is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under EPCRA to the Regional Administrators by EPA Delegation 22-3-A, dated May 11, 1994. The Regional Administrator, Region 4, has redelegated this authority to the Director, Air, Pesticides and Toxics Management Division, by EPA Region 4 Delegation 22-3-A, dated November 8, 1994. Pursuant to that delegation, the Director of the Air, Pesticides and Toxics Management Division has the authority to commence an enforcement action as the Complainant in this matter.

4. Respondent is Sun Coatings, a corporation doing business in the State of Florida.

5. Respondent is a "person" as defined in Section 329(7) of EPCRA, 42 U.S.C. § 11049(7)

6. Respondent owns and operates a “facility” as that term is defined by Section 329(4) of EPCRA, 42 U.S.C. § 11049(4).

7. Respondent’s facility is located at 2822 North 35<sup>th</sup> Street, Tampa, Florida 33605.

8. Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 CFR §§ 372.22 and 372.30, require the owner or operator of a facility that (a) has 10 or more full-time employees; (b) is in a covered Standard Industrial Classification (SIC) code (which is defined as follows: major group codes 10 (except 1011, 1081, 1094), 12 (except 1241), 20-39, 4911, 4931, or 4939 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce); or 4953 (limited to facilities regulated under the Resource Conservation and Recovery Act, Subtitle C, 42 U.S.C. § 6921 *et seq.*), 5169, 5171, and 7389 (limited to facilities primarily engaged in solvent recovery services on a contract or fee basis)); and (c) that manufactured, processed, or otherwise used a toxic chemical listed under Section 313(c) and in 40 CFR § 372.65, in excess of an applicable threshold quantity established under EPCRA Section 313(f) and set forth in 40 CFR § 372.25, during the calendar year, to complete and submit a toxic chemical release inventory reporting Form R (EPA Form 9350-1) to the Administrator of EPA and to the State in which the facility is located by July 1<sup>st</sup> for the preceding calendar year for each toxic chemical known by the owner or operator to be manufactured, processed, or otherwise used in quantities exceeding the established threshold quantity during the preceding calendar year.

9. As set forth in EPCRA Section 313(f) and 40 CFR § 372.25, the reporting threshold amount for a toxic chemical manufactured or processed at a facility is 25,000 pounds per calendar year. The reporting threshold for a toxic chemical otherwise used at a facility is 10,000 pounds per calendar year. The reporting thresholds for certain chemicals and chemical categories that meet criteria for persistence and bioaccumulation are lower than those stated above.

10. Respondent has 10 or more full-time employees, as defined at 40 CFR § 372.3 at its facility.

11. Respondent’s facility is classified in a covered SIC code (2851) as described at 40 CFR § 372.22.

12. Respondent’s facility processed ethyl benzene, a toxic chemical listed under EPCRA Section 313(c) and 40 CFR § 372.65, in excess of the 25,000 pound threshold quantity established under EPCRA Section 313(f) and 40 CFR § 372.25, during calendar year 2006.

13. Respondent failed to submit a Form R for ethyl benzene to the Administrator of EPA and to the official designated by the Governor of the State of Florida by July 1<sup>st</sup> of the reporting year 2007.

14. Respondent violated the reporting requirements of Section 313 of EPCRA, 42 U.S.C. § 11023, at its facility for calendar year 2006, and is therefore subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

15. Pursuant to Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), and 40 CFR Part 19, EPA may assess a penalty not to exceed \$32,500 for each violation of Section 313 that occurred on or after March 15, 2004. Each day a violation of Section 313 continues constitutes a separate violation. Civil penalties under Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), may be assessed by Administrative Order.

### III. Consent Agreement

16. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set out above but neither admits nor denies the factual allegations set out above.

17. Respondent waives any right to contest the allegations and its right to appeal the proposed final order accompanying the Consent Agreement.

18. Respondent consents to the assessment of and shall pay the civil penalty as set forth in this CAFO.

19. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of EPCRA at the facility.

20. Compliance with this CAFO shall resolve the allegations of violations contained herein. This CAFO shall not otherwise affect any liability of Respondent to the United States other than as expressed herein. Neither EPA nor Complainant waives any right to bring an enforcement action against Respondent for a violation of any federal or state statute, regulation or permit; to initiate an action for imminent and substantial endangerment; or to pursue criminal enforcement.

21. Complainant and Respondent agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public's interest and that this CAFO is consistent with the applicable requirements of EPCRA.

### IV. Final Order

22. Respondent shall pay a civil penalty of FOUR THOUSAND FIVE HUNDRED FOURTEEN DOLLARS (\$4,514), for the violations alleged in Section II. Payment is to be made within thirty (30) days of the effective date of this CAFO.

23. Respondent shall pay the penalty by forwarding a cashier's or certified check payable to "Treasurer, United States of America," to the following address:

**BY MAIL**  
U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, Missouri 63197-9000

**BY OVERNIGHT**  
U.S. Bank  
Attention: Natalie Pearson  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
St. Louis, Missouri 63101

The check shall reference on its face the name and the Docket Number of the CAFO

24. At the time of payment, Respondent shall send a separate copy of each 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

Erika L. White  
U.S. EPA, Region 4  
Air, Pesticides & Toxics Management Division  
61 Forsyth Street, S.W.  
Atlanta, GA 30303

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

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

26. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty from the date of entry of the CAFO if the penalty is not paid by the date required. Interest will be assessed at the rate established by the Secretary of Treasury pursuant to 31 U.S.C. § 3717. A charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorney fees. In addition, a penalty charge will be assessed on any portion of the debt that remains delinquent more than ninety (90) days after payment is due.

27. Complainant and Respondent shall bear their own costs and attorney's fees in this matter.

28. This CAFO shall be binding upon the Respondent, its successors and assigns.

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

Caron Falconer  
U.S. EPA, Region 4  
Air, Pesticides & Toxics Management Division  
61 Forsyth Street, S.W.  
Atlanta, GA 30303  
(404) 562-8451

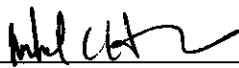
30. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally bind that party to it.

V. Effective Date


31. 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:

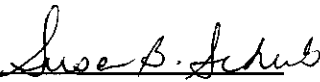
Sun Coatings

By:  Date: 6/13/08  
Michael Hyer  
Chief Operating Officer

U.S. Environmental Protection Agency

By:  Date: 6/16/08  
Beverly H. Banister, Director  
Air, Pesticides & Toxics  
Management Division  
Region 4

APPROVED AND SO ORDERED this 30<sup>th</sup> day of June, 2008.

  
Susan B. Schub  
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing  
Consent Agreement and Final Order, in the Matter of Sun Coatings  
EPCRA-04-2008-2025(b), on the parties listed below in the manner indicated:

Caron B. Falconer (Via EPA's internal mail)  
U.S. EPA, Region 4  
Air, Pesticides & Toxics Management Division  
61 Forsyth Street  
Atlanta, GA 30303

Bob Caplan (Via EPA's internal mail)  
U.S. EPA, Region 4  
Office of Environmental Accountability  
61 Forsyth Street  
Atlanta, GA 30303

Michael Hyer (Certified Mail, Return Receipt  
Sun Coatings Requested)  
4701 Broadway Ave.  
Tampa, FL 33605

Date: July 3, 2008

Claudette A. Honey 7/3/08 for  
Patricia A. Bullock, Regional Hearing Clerk  
United States Environmental  
Protection Agency, Region 4  
Atlanta Federal Center  
61 Forsyth Street, S.W.  
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 J Wilson on 6/26/08  
(Name) (Date)

in the OEH at (404) 562-9504  
(Office) (Telephone Number)

Non-SF Judicial Order/Consent Decree  
USAO COLLECTS

Administrative Order/Consent Agreement  
FMO COLLECTS PAYMENT

SF Judicial Order/Consent Decree  
DOJ COLLECTS

Oversight Billing - Cost Package required:  
Sent with bill

Other Receivable

Not sent with bill

This is an original debt

Oversight Billing - Cost Package not required

This is a modification

PAYEE: Sun Coatings  
(Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 4514  
(If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: EPCRA 01 2008-2025(b)

The Site Specific Superfund Account Number: \_\_\_\_\_

The Designated Regional/Headquarters Program Office: \_\_\_\_\_

**TO BE COMPLETED BY LOCAL FINANCIAL MANAGEMENT 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<br>Environmental Enforcement Section<br>Department of Justice RM 1647<br>P.O. Box 7611, Benjamin Franklin Station<br>Washington, D.C. 20044 | 2. Originating Office (EAD)<br>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<br>2. Regional Hearing Clerk | 3. Designated Program Office<br>4. Regional Counsel (EAD) |
|--|---|