

Hazardous Waste Enforcement: U.S. Environmental Protection Agency and Kinsale, Virginia Facility Enter into Consent Agreement



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The United States Environmental Protection Agency (“EPA”) and Potomac Supply Company, LLC (“Potomac”) entered into an October 30th Consent Agreement (“CA”) addressing alleged violations of Resource Conservation and Recovery Act (“RCRA”) Hazardous Waste Regulations. See Docket No. RCRA-03-2020-0006.

The CA provides that Potomac is the owner and operator of a facility (“Facility”) as those terms are defined by RCRA in Kinsale, Virginia.

The Facility is stated to have been assigned an EPA RCRA I.D. number. Further, it is stated that all times relevant to the CA the Facility has been a generator of, and has been engaged in the storage in containers (as those terms are defined in RCRA) at the Facility of materials that are solid wastes and hazardous wastes.

The waste generated at the Facility constituting hazardous waste is stated to include material from wood preserving. Such waste is stated to be a RCRA listed hazardous waste. In addition, the Facility is stated to generate waste solvent-based paint which is a hazardous waste because it exhibits the characteristic ignitability.

The CA provides that at least from May 16, 2017 to the present, the waste previously described was in “storage” in containers and tanks at the Facility as defined in 40 C.F.R. § 260.10.

The CA alleges the following violations:

- Failure to make hazardous waste determinations
- Failure to obtain and keep on file a Certified Assessment by a Professional Engineer

The CA includes a Compliance Order requiring that various tasks be performed, which include:

- Obtain and keep on file a written assessment of the Drip Pad which is reviewed and certified by a qualified Professional Engineer that attests to the results of an evaluation required by 40 C.F.R. § 264.571(a)
- Development of a standard operating procedure ensuring the Facility has a written assessment of the process area
- Development of a standard operating procedure ensuring the Facility complies with 40 C.F.R. 264 Subpart W with regard to the Facility Drip Pad Process Area

A civil penalty of \$38,252 is assessed.

A copy of the CA can be downloaded [here](#).