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RCRA Enforcement: U.S. Environmental Protection Agency and Owner/Operator Harleyville, South Carolina Cement Manufacturing/Hazardous Waste Management Facility enter into Consent Agreement

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The United States Environmental Protection Agency (“EPA”) and Giant Cement Company (“Giant”) entered into a December 5th Consent Agreement (“CA”) addressing alleged violations of the Resource Conservation and Recovery Act (“RCRA”) and South Carolina Hazardous Waste Management Regulations. See Docket No.: RCRA-04-2017-4013(b).

The CA provides that Giant is the owner and operator of a cement manufacturing and hazardous waste management facility located in Harleyville, South Carolina.

The Giant facility is stated to have been issued a permit by the South Carolina Department of Health and Environmental Control (“DHEC”) for the storage and treatment of hazardous waste (“RCRA Permit”). One of the conditions of the RCRA Permit requires Giant to:

. . . submit a Railcar Management Plan (Plan) that, at a minimum, contained the following: shipment receipt and record keeping procedures, railcar turnaround time, inspection schedules, security information, and a contingency plan.

Giant’s Plan was entitled “Hazardous Waste Railcar Turnaround Time.” The Plan provides that the facility shall:

Process railcars within 10 days of when the railcar is placed within the fence line. Additionally, no more than 10 percent of the total number of hazardous waste-containing railcars brought on-site in a calendar year shall exceed the 10-day time limit, unless approved by SC DHEC.

The Giant cement manufacturing and hazardous waste management facility receives hazardous waste for energy recovery via various shipping methods which include railcar. The facility is also stated to burn hazardous waste derived fuel along with other fuels in its cement kiln for energy recovery.

EPA is stated to have conducted a Compliance Evaluation Inspection (“CEI”) at the Giant facility on August 9-10, 2016. Further, EPA sent Giant a Request for Information on December 22, 2016 requesting:

- Inventory records used to track hazardous waste-containing railcars designated for the facility for each day between October 1, 2013 and September 30, 2016, (including various information)

Giant provided an electronic copy of the database for the relevant period which was used to track hazardous waste-containing railcars designated for the facility.

EPA, pursuant to a February 8, 2017 email, requested:

- Inventory records for hazardous waste-containing railcars designated for the facility based on the calendar year, from January 1, 2013 through December 31, 2016 (including various information)

Giant responded on February 17, 2017, by providing an electronic copy of the database used to track hazardous waste-containing railcars designated for the facility for the additional time period of January 1, 2013 to September 30, 2013 and October 1, 2016 to December 31, 2016.

Giant is stated to have submitted voluntary disclosures to DHEC on three dates disclosing that greater than 10 percent of the hazardous waste-containing railcars processed in the calendar years 2013, 2014, 2015, and 2016 exceeded the 10-day processing time.

Giant’s July 10, 2017, disclosure for calendar year 2013 is stated to have indicated that the facility processed 267 hazardous waste railcars, of which 51 railcars exceeded the 10-day time period for processing. As a result, the CA states that 25 railcars exceeded the 10 percent allowance for that year and required approval from DHEC. Giant is stated to have failed to obtain the required approval.

The CA contains an allegation that Giant failed to comply with Section 4.0 of the Plan by exceeding the 10-day turnaround time for greater than 10 percent of the hazardous waste-containing railcars brought on-site in the calendar year 2013, without receiving approval from DHEC.

Giant’s February 7, 2017, disclosure for calendar year 2014, indicates the facility processed 266 hazardous waste railcars, of which 29 railcars exceeded the 10-day time period for processing. As a result, two railcars were stated to have exceeded the 10 percent allowance for that year and required approval from DHEC. The facility is stated to have not obtained the required approval. EPA therefore, again, alleges that Giant failed to comply with Section 4.0 of the Plan.

The February 17, 2017, disclosure for the calendar year 2015 states that the facility processed 200 hazardous waste railcars, of which 39 railcars are alleged to have exceeded the 10-day time period for processing. Therefore, 19 railcars are stated to have exceeded the 10 percent allowance for that year and required approval from DHEC. Giant is stated to have failed to obtain the required approval.

EPA therefore, again, alleges that Giant failed to comply with Section 4.0 of the Plan by exceeding the 10-day turnaround time for greater than 10 percent of the hazardous waste-containing railcars brought on-site in the calendar year 2015, without receiving approval from DHEC.

Giant’s February 7, 2017, disclosure for the calendar year 2016 states that the facility processed 144 hazardous waste railcars, of which 20 railcars exceeded the 10-day time period for processing. As a result, five railcars are stated to have exceeded the 10 percent allowance for that year and required approval from DHEC. Giant is stated to have failed to obtain the required approval.

EPA therefore, again, alleges that Giant failed to comply with Section 4.0 of the Plan by exceeding the 10-day turnaround time for greater than 10 percent of the hazardous waste-containing railcars brought on-site in the calendar year 2016 without receiving approval from DHEC.

Consequently, EPA alleges that Giant failed to comply with certain sections of its Permit.

Giant neither admits nor denies the factual allegations and determinations set out in the CA. The CA provides that the factual allegations and determinations set out in the CA have not been adjudicated, and shall not be deemed to have been established except in a proceeding to enforce the CA.

The CA assesses a civil penalty of \$13,300.

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