



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

MAR 28 2008

LR-8J

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

Silvano V. Boswell  
General Manager  
North American EN, Inc.  
776 Lunt Avenue  
Elk Grove Village, IL 60007

Re: Consent Agreement and Final Order  
North American EN, Inc.  
EPA ID No.: ILD082068214  
Docket No.: RCRA-05-2007-0015

Dear Mr. Boswell:


Enclosed please find an original signed fully-executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The originals were filed on March 28, 2008 with the Regional Hearing Clerk (RHC).

Please remit the first of 3 installments of the \$21,256 civil penalty, as prescribed in paragraphs 14, 27 and 28 of the CAFO, and reference all checks with the number BD275089R002 and docket number RCRA-05-2007-0015.

Thank you for your cooperation in resolving this matter.

2750859R002

Sincerely,

  
Willie H. Harris, P.E.  
Chief, RCRA Branch  
Land and Chemicals Division

Enclosure

cc: Todd Marvel, Illinois Environmental Protection Agency (w/CAFO)

## **NOTICE OF SECURITIES AND EXCHANGE COMMISSION REGISTRANTS' DUTY TO DISCLOSE ENVIRONMENTAL LEGAL PROCEEDINGS**

Securities and Exchange Commission regulations require companies registered with the SEC (e.g., publicly traded companies) to disclose, on at least a quarterly basis, the existence of certain administrative or judicial proceedings taken against them arising under Federal, State or local provisions that have the primary purpose of protecting the environment. Instruction 5 to Item 103 of the SEC's Regulation S-K (17 CFR 229.103) requires disclosure of these environmental legal proceedings. For those SEC registrants that use the SEC's "small business issuer" reporting system, Instructions 1-4 to Item 103 of the SEC's Regulation S-B (17 CFR 228.103) requires disclosure of these environmental legal proceedings.

If you are an SEC registrant, you have a duty to disclose the existence of pending or known to be contemplated environmental legal proceedings that meet any of the following criteria (17 CFR 229.103(5)(A)-(C)):

- A. Such proceeding is material to the business or financial condition of the registrant;
- B. Such proceeding involves primarily a claim for damages, or involves potential monetary sanctions, capital expenditures, deferred charges or charges to income and the amount involved, exclusive of interest and costs, exceeds 10 percent of the current assets of the registrant and its subsidiaries on a consolidated basis; or
- C. A governmental authority is a party to such proceeding and such proceeding involves potential monetary sanctions, unless the registrant reasonably believes that such proceeding will result in no monetary sanctions, or in monetary sanctions, exclusive of interest and costs, of less than \$100,000; provided, however, that such proceedings which are similar in nature may be grouped and described generically.

Specific information regarding the environmental legal proceedings that must be disclosed is set forth in Item 103 of Regulation S-K or, for registrants using the "small business issuer" reporting system, Item 103(a)-(b) of Regulation S-B. If disclosure is required, it must briefly describe the proceeding, "including the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceedings and the relief sought."

You have been identified as a party to an environmental legal proceeding to which the United States government is, or was, a party. If you are an SEC registrant, this environmental legal proceeding may trigger, or may already have triggered, the disclosure obligation under the SEC regulations described above.

This notice is being provided to inform you of SEC registrants' duty to disclose any relevant environmental legal proceedings to the SEC. This notice does not create, modify or interpret any existing legal obligations, it is not intended to be an exhaustive description of the legally applicable requirements and it is not a substitute for regulations published in the Code of Federal Regulations. This notice has been issued to you for information purposes only. No determination of the applicability of this reporting requirement to your company has been made by any governmental entity. You should seek competent counsel in determining the applicability of these and other SEC requirements to the environmental legal proceeding at issue, as well as any other proceedings known to be contemplated by governmental authorities.

If you have any questions about the SEC's environmental disclosure requirements, please contact the SEC Office of the Special Senior Counsel for Disclosure Operations at (202) 942-1888.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

<b>IN THE MATTER OF:</b>	)	
	)	<b>DOCKET NO.</b>
<b>North American EN, Inc.</b>	)	
<b>450 Crossen Avenue</b>	)	
<b>Elk Grove Village, IL 60007</b>	)	<b>RCRA-05-2007-0015</b>
	)	
<b>U.S. EPA ID No.: ILD082068214</b>	)	
	)	
<b>Respondent</b>	)	
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**CONSENT AGREEMENT**

**Jurisdiction**

1. This Consent Agreement and Final Order (“CAFO”) settles the civil administrative complaint (the Complaint) for the assessment of civil penalties that the United States Environmental Protection Agency (“U.S. EPA”) issued to Respondent on September 27, 2007, pursuant to sections 3008(a) and (g) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, and the Hazardous and Solid Waste Amendments of 1984 (collectively herein “RCRA”), 42 U.S.C. §§ 6928(a) and (g); and sections 22.13(a) and 22.18(b) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R. §§22.13(a) and 22.18(b).
2. Jurisdiction for this action is conferred upon the U.S. EPA by sections 3006(b) and 3008 of RCRA, 42 U.S.C. §§6926(b) and 6928.
3. Pursuant to section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the U.S. EPA Administrator has granted the State of Illinois final authorization to administer a state hazardous

waste program in lieu of the federal government's base RCRA program and certain amendments to RCRA. The U.S. EPA-authorized Illinois regulations are codified at 35 IAC Part 703 *See also 40 C.F.R. §§272.700 et seq.*

4. Any violation of the regulations promulgated pursuant to Subchapter III of RCRA (sections 3001-3023 of RCRA, 42 U.S.C. §§ 6921-6939e) or of any state provision authorized pursuant to section 3006 of RCRA, constitutes a violation of RCRA that is subject to the assessment of civil penalties and the issuance of compliance orders, as provided in section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

5. The Complaint alleged that Respondent violated 35 IAC §§ 703.121(a)(1) and 35 IAC § 722.111, at its facility located at 450 Crossen Avenue in Elk Grove Village, Illinois.

6. The Director of the Land and Chemicals Division, U.S. EPA, Region 5, has been lawfully delegated to execute this Consent Agreement; and the Regional Administrator, U.S. EPA, Region 5, has been lawfully delegated to execute the associate Final Order.

7. The U.S. EPA has provided notice of this action to the State of Illinois in accordance with section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

#### **Terms of Settlement**

8. The U.S. EPA and Respondent mutually consent to the issuance of this CAFO before the taking of any testimony and without any adjudication of any issues of law or fact herein, and agree to comply with all terms and conditions herein.

9. Respondent admits any jurisdictional and general allegations set forth in the Complaint and this Consent Agreement.

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10. Respondent does not admit any specific allegations set forth in the Complaint or this Consent Agreement.

11. Respondent certifies that it has achieved compliance with the RCRA requirements that formed the basis of the violations alleged in the Complaint and agrees to maintain such compliance as long as the existing RCRA regulations remain in effect.

12. Respondent consents and agrees to comply with any and all conditions specified in this CAFO, including the assessment of a civil penalty to settle this matter.

13. Respondent agrees to pay a civil penalty of twenty-one thousand two hundred and fifty-six dollars (\$21,256), plus interest to settle this matter, according to the schedule specified in Paragraph 14 and to the terms specified below.

14. Respondent shall make three separate payments under the CAFO; (1) the first within sixty (60) days; (2) the second within one hundred twenty (120) days; the third within one hundred eighty (180) days; of the effective date of the CAFO. Each payment shall consist of principal and interest; each principal payment shall consist of seven thousand eighty-five dollars and thirty-three cents (\$7,085.33). The interest payment shall vary, as set forth in the table below:

<b>Payment 1 total due</b>	<b>\$7259.56</b> (7085.33 plus 174.23 interest)
<b>Payment 2 total due</b>	<b>\$7201.48</b> (7085.33 plus 116.15 interest)
<b>Payment 3 total due</b>	<b>\$7143.42</b> (7085.33 plus 58.08 interest)
	<b>Sum \$21,604.46 (Principal \$21,256 plus \$348.46 interest)</b>

The interest rate is based on the Current Value of Funds Rate (CVFR), and is set according to the regulations of the U.S Department of Treasury.

15. Respondent agrees not to deduct any penalty payment made pursuant to this CAFO under any federal, state or local tax law.

16. The U.S. EPA and Respondent each agree to bear its own costs and attorney's fees in connection with the matter resolved by this CAFO.

17. Respondent waives any rights it may have to contest or appeal any jurisdictional, general or specific allegations set forth in the Complaint and in this Consent Agreement, and any right to appeal the Final Order.

18. Respondent waives any rights it may have in law or equity to challenge the authority of the U.S. EPA to bring a civil action in an appropriate United States District Court to compel compliance with this CAFO and/or to seek additional penalties if Respondent fails to comply with any provision of this CAFO.

19. Respondent agrees that this CAFO shall apply to and be binding upon Respondent, its officers, directors, employees, assigns and successors-in-interest. Respondent shall give notice and a copy of this CAFO to any successor-in-interest prior to any transfer of ownership or operational control regarding its Elk Grove Village, Illinois facility.

20. This CAFO constitutes a settlement of only the violations of RCRA alleged in the Complaint, and does not constitute a waiver by the U.S. EPA of any remedies, either judicial or administrative, for any other matters. Nothing in this CAFO is intended to, nor shall be construed to, operate in any way to resolve any criminal liability of Respondent that may arise from the factual allegations described in the Complaint. Compliance with this CAFO shall not be a defense to any actions subsequently commenced pursuant to other federal laws and regulations administered by the U.S. EPA, and it is Respondent's responsibility to comply with such laws and regulations.

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21. Nothing in this CAFO shall be construed to relieve Respondent from its obligation to comply with all applicable federal, state and local statutes and regulations.

22. Nothing in this CAFO shall be construed to restrict the U.S. EPA's authority to seek Respondent's compliance with RCRA or any other applicable laws or regulations.

23. Each undersigned representative of a party to this CAFO certifies that he or she is fully authorized to enter into the terms and conditions of this CAFO and to legally bind such party to this document.

24. Respondent consents to the U.S. EPA's execution and filing of this CAFO without additional notice.

25. This CAFO constitutes the entire agreement between the U.S. EPA and Respondent regarding the above-captioned matter.

#### **Determination and Payment of the Civil Penalty**

26. The U.S. EPA has determined that \$21,256 is an appropriate civil penalty for Respondent to pay to settle this matter. The U.S. EPA determined this civil penalty in accordance with the factors specified in section 3008(a)(3) of RCRA, 42 U.S.C. §6928(a)(3), with specific reference to the U.S. EPA's 2003 RCRA Civil Penalty Policy.

27. Respondent shall pay the \$21,256 civil penalty, plus interest, as set forth in the payment schedule in paragraph 14, starting 60 days after this CAFO is filed with the Regional Hearing Clerk, U.S. EPA, Region 5. Each payment shall be made by certified or cashier's check, payable to "Treasurer, United States of America," and shall be sent to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center

PO Box 979077  
St. Louis, MO 63197-9000

The check shall bear Respondent's name, the docket number of this CAFO, and the assigned "BD" billing document number (the U.S. EPA will assign this BD number after this CAFO is filed). A transmittal letter stating Respondent's name, complete address, the docket number, and the assigned BD number must also accompany the payment check.

28. Respondent shall also send copies of the check and transmittal letter to:

Regional Hearing Clerk (E-13J)  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Blvd.  
Chicago, Illinois 60604-3590

Todd C. Brown  
Environmental Scientist  
Land and Chemicals Division (LR-8J)  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Blvd.  
Chicago, Illinois 60604-3590; and

Sherry L Estes  
Associate Regional counsel  
Office of Regional Counsel (C-14J)  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Blvd.  
Chicago, Illinois 60604-3509.

29. If Respondent does not pay the full civil penalty within thirty (30) days of each scheduled payment set forth in Paragraph 14, U.S. EPA may refer collection of this penalty to the United States Attorney General who may bring an action to collect any unpaid portion of the civil penalty including interest, handling charges, non-payment penalties, and the expenses incurred by the United States to pursue the collection action. In such a collection action, the validity, amount and appropriateness of the civil penalty are not reviewable.

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30. Pursuant to 31 U.S.C. § 3717, Respondent shall pay the following interest and late charges on any amount overdue pursuant to this CAFO:

(a). Interest. Interest shall begin to accrue 30 days after the CAFO's effective date, and is calculated into the payment schedule set forth in Paragraph 14. Interest will continue to accrue on any unpaid portion of the civil penalty that is not paid by the last date required. Any unpaid portion of the civil penalty shall continue to bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1) and 31 C.F.R. § 901.9(b).

(b). Monthly Handling Charge. Respondent shall 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. A "late" payment, for purposes of this CAFO, is a payment which is not in compliance with the payment schedule set forth in Paragraph 14.

(c). Non-Payment Penalty. Respondent shall pay a non-payment penalty of six percent (6%) per year on any portion of the civil penalty that is past due, according to the payment schedule set forth in Paragraph 14, more than ninety (90) calendar days. This non-payment penalty will accrue from the date the penalty payment became due and was not paid. This non-payment penalty is in addition to charges which accrue or may accrue under subparagraphs (a) and (b) above.

**Effective Date**

31. This CAFO shall become effective on the date it is filed with the Regional Hearing Clerk, U.S. EPA, Region 5.

**For North American EN., Inc., Elk Grove Village, Illinois; Respondent.**

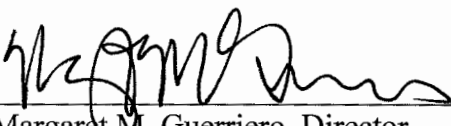
  
\_\_\_\_\_  
Signature

03/05/08  
\_\_\_\_\_  
Date

Michael Bresio  
\_\_\_\_\_  
Printed Name:  
For North American EN., Inc.,  
Elk Grove Village, Illinois; Respondent.

President  
\_\_\_\_\_  
Title

**For the United States Environmental Protection Agency**

  
\_\_\_\_\_  
Margaret M. Guerriero, Director  
Land and Chemicals Division

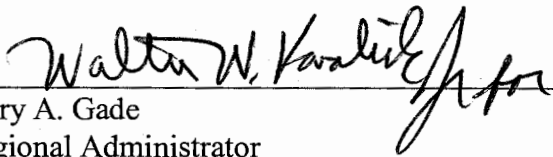
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Date

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**FINAL ORDER**

The terms of the foregoing Consent Agreement are hereby approved and incorporated by reference into this Final Order. Respondent, **North American EN., Inc., Elk Grove Village, Illinois**, agrees to comply with the foregoing terms of that Consent Agreement. That Consent Agreement, and this Final Order, dispose of this matter pursuant to section 22.18(b) of the Consolidated Rules of Practice, 40 C.F.R. § 22.18(b). This Order shall become effective immediately upon being filed with the Regional Hearing Clerk, U.S. EPA, Region 5.

**IT IS SO ORDERED.**

  
\_\_\_\_\_  
Mary A. Gade  
Regional Administrator

3/26/08  
Date

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**CASE NAME: North American EN, Inc.**  
**DOCKET NO: RCRA-05-2007-0015**

**CERTIFICATE OF SERVICE**

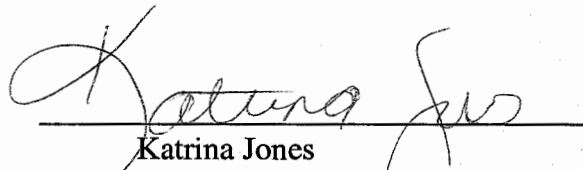
I hereby certify that today I filed the original of this **Consent Agreement and Final Order (CAFO)** and this **Certificate of Service** in the office of the Regional Hearing Clerk (E-13J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Blvd., Chicago, IL 60604-3590.

I further certify that I then caused true and correct copies of the filed document to be mailed via Certified Mail, Return Receipt Requested to the following:

Silvano V. Boswell, General Manager  
North American EN, Inc.  
776 Lunt Avenue  
Elk Grove Village, IL 60007

Return Receipt # 7001 0320 0006 0185 5060

Dated: 3/28/08



Katrina Jones  
Administrative Program Assistant  
United States Environmental Protection Agency  
Land and Chemicals Division -RCRA Branch  
77 W. Jackson Boulevard  
Chicago, IL 60604-3590  
(312) 353-5882

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