

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 2

In the Matter of:

Stark Northeast Oil Corp.

Respondent,

Proceeding Under Section 3008 of the
Resource Conservation and Recovery Act
as amended.

**CONSENT AGREEMENT
AND
FINAL ORDER**

Docket No. RCRA-02-2024-7103

PRELIMINARY STATEMENT

This is a civil administrative enforcement proceeding instituted pursuant to Section 3008 of the Solid Waste Disposal Act, as amended by various statutes including the Resource Conservation and Recovery Act and the Hazardous and Solid Waste Amendments of 1984 ("HSWA"), 42 U.S.C. §§ 6901 *et seq.* (referred to collectively as the "Act" or "RCRA"). The United States Environmental Protection Agency ("EPA") has promulgated regulations governing the handling and management of hazardous waste at Title 40 of the Code of Federal Regulations ("C.F.R.") Parts 260-273 and 279. Section 3006(b) of the Act, 42 U.S.C. § 6926(b), provides that EPA's Administrator may, if certain criteria are met, authorize a state to operate a hazardous waste program (within the meaning of Section 3006 of the Act, 42 U.S.C. § 6926) utilizing state regulations in lieu of the regulations comprising the federal hazardous waste program (the Federal Program). The State of New York has been authorized by EPA to conduct a hazardous waste program ("authorized state program").

Pursuant to 40 C.F.R. § 22.13(b), where the parties agree to settlement of one or more causes of action before the filing of an administrative complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order ("CA/FO") pursuant to 40 C.F.R. §§ 22.18(b)(2) and (3). This administrative proceeding constitutes one that is simultaneously being commenced and concluded pursuant to said provisions.

EPA has given notice of this action to the State of New York.



EPA'S FINDINGS OF FACT AND CONCLUSIONS OF LAW

Respondent

1. Respondent is Stark Northeast Oil Corp. ("Stark"), a for profit corporation organized pursuant to the laws of the State of New York in 1985.
2. Respondent owns and operates a facility located at 1878 Maxon Road, Schenectady, New York 12301 (the "Facility").
3. Respondent is a "person" as that term is defined in Section 1004 (15) of the Act, 42 U.S.C. § 6903(15), and 6 New York Code of Rules and Regulations ("6 NYCRR") § 370.2(b).
4. Respondent is and has been the "owner" and/or "operator" of the Facility within the meaning of 6 NYCRR § 370.2(b).

Respondent's Generation and Management of Hazardous Waste

5. Respondent is primarily a vendor of automotive lubrication oil but also sells other automotive related products, i.e., antifreeze, brake/transmission/steering fluids, windshield wiper fluid, etc. Respondent purchases these products from third parties either in bulk or in containerized form, and markets and delivers them directly to a reported 2200 – 2300 customers within an estimated 100-mile radius of Schenectady, New York. Respondent delivers its products to customers in either bulk shipments or in containers, some of which may be filled at the Facility.
6. Upon information and belief, Respondent's automotive products distribution business used to include the removal and cleaning of residues from returned drums, sometimes using mineral spirits and brake cleaner (which may contain chlorinated solvents) to facilitate the cleaning process, and as part of that process Respondent was generating "solid waste" at its Facility.
7. Respondent, as part of the above-described process, was generating hazardous waste at its Facility.
8. Respondent, when carrying out the activities described in the previous paragraphs, generated "solid waste" and "hazardous waste" at its Facility, as those terms are defined in 6 NYCRR § 371.1(c) & (d).
9. At the time of EPA's 2022 inspection, as described in the paragraph below, Respondent at the Facility had generated greater than 1000 kilograms ("kg") of non-acute hazardous waste in a calendar month and would have been considered a "Large Quantity Generator" ("LQG") of hazardous waste.



EPA Investigative and Enforcement Activities

10. On or about June 13-16, 2022, duly designated representatives of EPA inspected Respondent's Facility pursuant to Section 3007 of the Act, 42 U.S.C. § 6927 to determine Respondent's compliance with Subtitle C of RCRA and its implementing regulations, including New York State's federally authorized hazardous waste regulations (the "Inspection").
11. During the June 2022 Inspection, EPA inspectors noted approximately seventy-one (71) containers of waste material at the Facility for which company representatives could provide no hazardous waste classification.
12. During the June 2022 Inspection, the EPA inspectors took grab samples of nineteen (19) separate containers at the Respondent's Facility, which included fifteen (15) of the sixty-eight (68) fifty-five (55) gallon drums in the garage area; all 3 plastic totes in the warehouse; and oily material in the feed tank to the space heater in the warehouse.
13. The samples taken by EPA during the June 2022 EPA RCRA Inspection were analyzed at a USEPA operated laboratory, where the majority of the samples were determined to be hazardous waste subject to Subtitle C of RCRA and its implementing regulations.
14. During the June 2022 Inspection, EPA inspectors noted that none of the aforementioned containers and totes at Respondent's Facility were marked with their respective accumulation start dates, and some of the containers were not marked "Hazardous Waste."
15. On or about August 22, 2022, EPA issued to Respondent an Initial Observation Report from the June 2022 Inspection, which contained a Notice of Violation ("NOV") identifying potential RCRA violations.
16. Based on the Inspection and the subsequent waste sample analysis, EPA determined that Respondent had failed to comply with the following authorized New York hazardous waste regulations:
 - a. The Facility failed to determine if solid wastes generated at the Facility were hazardous wastes, in accordance with 6 N.Y.C.R.R. § 372.2(a)(2); and
 - b. The facility failed to store hazardous waste in a manner that satisfied the conditions for storage without a hazardous waste permit and was as a result in violation of hazardous waste permit requirements. See 6 N.Y.C.R.R. § 373-1.2(c).
17. On or about June 7, 2023, EPA issued to Respondent a Notice of Potential Violations and Opportunity to Confer ("NOPVOC").
18. From June 2023 through October 2023, EPA and Respondent had several informal settlement conferences, telephone calls and email exchanges. The Parties agreed to settle this matter as provided herein.



CONSENT AGREEMENT

Pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928, and 40 C.F.R. § 22.18 of the Consolidated Rules of Practice, it is hereby agreed by and between the parties hereto, and voluntarily and knowingly accepted by Respondent, that Respondent, for purposes of this Consent Agreement and in the interest of settling this matter expeditiously without the time, expense or uncertainty of a formal adjudicatory hearing on the merits: (a) admits the jurisdictional basis for EPA prosecuting this case; (b) neither admits nor denies EPA's Findings of Fact and Conclusions of Law; (c) consents to the assessment of the civil penalty as set forth below; (d) consents to the issuance of the Final Order incorporating all the provisions of this Consent Agreement; and (e) waives its right to contest or appeal that Final Order.

Pursuant to 40 C.F.R. § 22.31(b), the executed Consent Agreement and accompanying Final Order shall become effective and binding when filed with the Regional Hearing Clerk of the Agency, Region 2 (such date henceforth referred to as the "effective date").

Based upon the foregoing, and pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928, and 40 C.F.R. § 22.18, Respondent voluntarily and knowingly agrees to, and shall comply with, the following terms:

1. Respondent shall hereinafter comply with RCRA and all applicable New York State federally authorized hazardous waste regulations relating to the generation and storage of hazardous waste at the Facility, including:
 - a. Making determinations as to whether any solid waste generated at the Facility is a hazardous waste, as required by 6 N.Y.C.R.R. § 372.2(a)(2); and
 - b. Storing any hazardous waste generated at the Facility in a manner that satisfies the conditions for storage without a hazardous waste permit.
2. Respondent hereby certifies that, as of the date of its signature to this Agreement and to the best of its knowledge and belief, it is in compliance at its Facility with all applicable RCRA requirements, especially but not limited to the requirements referenced in Paragraph 16 of EPA's Findings of Facts and Conclusions of Law of this CA/FO.
3. This CA/FO is not intended, and shall not be construed, to waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable federal, state and local laws and regulations relating to any generation, management, treatment, storage, transport or offering for transport, or disposal of hazardous waste by the Respondent.
4. Respondent shall pay a civil penalty of **Forty-Four Thousand Dollars (\$44,000.00)**, to be paid on or before thirty (30) days following the effective date of this order.
5. The payment, in accordance with the terms and schedule of this Consent Agreement, shall be made by cashier's check, certified check, electronically via Fedwire or on-line. The payment shall be in accordance with the instructions set



forth in this paragraph. If Respondent makes payment by cashier's check or certified check, then the check shall be *received* at the below-listed address on or before the date specified. If Respondent makes payment electronically, then the Fedwire or on-line payment shall be *received* on or before the date specified.

- a. If the payment is made by check, then the check shall be:
 - i. made payable to the **Treasurer, United States of America;**
 - ii. identified with a notation thereon listing the following: ***In re Stark Northeast Oil Corp., Docket No. RCRA-02-2024-7103;*** and
 - iii. mailed to:

**U.S. Environmental Protection Agency
Fines and Penalties Cincinnati Finance Center
P.O. Box 979078
St. Louis, MO 63197-9000**

- b. If Respondent chooses to make the payment by Fedwire, then Respondent shall provide the following information to the remitter bank:
 - i. Amount of Payment (**\$44,000.00**)
 - ii. SWIFT address: **FRNYUS33, 33 Liberty Street, New York, NY 10045;**
 - iii. Account Code for Federal Reserve Bank of New York receiving payment: **68010727;**
 - iv. Federal Reserve Bank of New York ABA routing number: **021030004;**
 - v. Field Tag 4200 of the Fedwire message should read: **D8010727 Environmental Protection Agency;**
 - vi. Name of Respondent and Matter: **"Stark Northeast Oil Corp.;"** and
 - vii. Docket Number: **RCRA 02-2024-7103.**

- c. If Respondent chooses to make payment on-line, Respondent shall go to www.pay.gov and enter SFO 1.1 in the search field on the tool bar on the Home Page; select Continue under "EPA Miscellaneous Payments – Cincinnati Finance Center;" and open the form and complete the required fields. Once payment has been effected, Respondent shall email proof of payment to Englot.Suzanne@epa.gov and Wise.Milton@epa.gov with **"In the Matter of Stark Northeast Oil Corp., RCRA-02-2024-7103"** as the subject line.



6. Failure to pay the full amount of the penalty, according to the above provisions, will result in the referral of this matter to the United States Department of Justice and/or the United States Department of Treasury for collection and/or other appropriate action.
7. If Respondent fails to make timely payment, Respondent shall be liable for any interest that has accrued up to the time it makes full payment. In addition, Respondent shall be liable for, and shall pay, the following handling charges and late penalty charges in the event of any such failure or default and shall remit such payment in accordance with the payment instructions in Paragraph 5 of this Consent Agreement, above.
 - a. Handling Charges: Pursuant to 31 U.S.C. Section 3717(e)(1), a monthly handling charge of fifteen dollars (\$15.00) shall be assessed for each thirty (30) day calendar day period or any portion thereof, following the date the payment was to have been made, in which payment of the amount remains in arrears.
 - b. Late Payment Penalty Charge: A late penalty of six percent (6%) per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days, 40 C.F.R. § 13.11(c). The late payment penalty on any portion of the civil penalty that remains delinquent more than ninety (90) days shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
8. The civil penalty provided for in this section (including any payment for interest or late payment handling charge that have become due) constitutes a penalty within the meaning of 26 U.S.C. § 162(f) and does not constitute a deductible expenditure for purposes of federal or state law.
9. Complainant shall email to Respondent (to the representative designated in Paragraph 11 of this Consent Agreement, *infra*) a copy of the fully executed CA/FO. Respondent consents to service of the CA/FO by email and consents to service upon it by an employee of EPA other than the Regional Hearing Clerk.
10. Except as the parties may agree otherwise in writing, all documentation and information required to be submitted by the Respondent to EPA in accordance with the terms and conditions of this Consent Agreement shall be sent by email to:

John Wilk, Compliance Officer
Enforcement & Compliance Assurance Division
Wilk.John@epa.gov

Suzanne Englot, Assistant Regional Counsel
Office of Regional Counsel
Englot.Suzanne@epa.gov



11. Unless the above-named EPA contacts are later advised otherwise in writing, EPA shall send any future written communications related to this matter (including any correspondence related to payment of the penalty) to Respondent by email to the following parties:

Randy H. Nellis
Office Manager
Stark Northeast Oil Corp.
1878 Maxon Road
Schenectady, New York 12301
Starkoil@capital.net

Steve Halsdorf
Secretary/Treasurer
Stark Northeast Oil Corp.
1878 Maxon Road
Schenectady, New York 12301
Starkoil@capital.net

12. Full payment of the penalty described in Paragraph 4 of the Consent Agreement, shall only resolve Respondent's liability for federal civil penalties for the violation(s) and facts described in Paragraphs 11, 14, and 16 of EPA's Findings of Fact and Conclusions of Law. Full payment of this penalty shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.
13. The provisions of this Consent Agreement shall be binding upon Respondent, and its successors or assigns.
14. Respondent waives its right to request or to seek any hearing in this matter including one on the terms and conditions set forth in the Consent Agreement and its accompanying Final Order and/or EPA's Findings of Fact and Conclusions of Law, above.
15. Nothing in this document is intended or construed to waive, prejudice or otherwise affect the right of EPA, or the United States, from pursuing any appropriate remedy, sanction or penalty prescribed by law against Respondent, if Respondent has made any material misrepresentations or has provided materially false information in any document submitted during this proceeding.
16. Each party hereto agrees to bear its own costs and attorney's fees in this matter.
17. The undersigned signatory for Respondent certifies that he/she is duly and fully authorized to enter into this Consent Agreement and all the terms and conditions set forth in this Consent Agreement.
18. EPA and Respondent agree that the parties may use electronic signatures for this matter.



In the Matter of Stark Northeast Oil Corp., Docket No.: RCRA 02-2024-7103

RESPONDENT:

 01/16/2024

Steve Halsdorf
Secretary/Treasurer
Stark Northeast Oil Corp.
1878 Maxon Road
Schenectady, New York 12301
Starkoil@capital.net

In the Matter of Stark Northeast Oil Corp., Docket No.: RCRA 02-2024-7103

COMPLAINANT:

Kate Anderson, Acting Director
Enforcement and Compliance Assurance Division
Environmental Protection Agency - Region 2
290 Broadway, 21st Floor
New York, New York 10007-1866

In the Matter of Stark Northeast Oil Corp., Docket No.: RCRA 02-2024-7103

FINAL ORDER

The Regional Administrator of the U.S. Environmental Protection Agency, Region 2, ratifies the foregoing Consent Agreement. The Consent Agreement, entered into by the Complainant and the Respondent, is hereby approved, incorporated herein, and issued as an Order pursuant to Section 3008 of the Act and 40 C.F.R. § 22.18(b)(3). The effective date of this Order shall be the date of filing with the Regional Hearing Clerk, U.S. EPA, Region 2, New York, New York.

Lisa F. Garcia
Regional Administrator
U.S. Environmental Protection Agency - Region 2
290 Broadway, 26th Floor
New York, New York 10007-1866