

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Rivera for Mary Jane O'Donnell 4/22/09
Name of Case Attorney Date

in the ORC (RAA) at 918-1113
Office & Mail Code Phone number

Case Docket Number CWA-01-2009-0011 & EPCRA-01-2009-0012

Site-specific Superfund (SF) Acct. Number _____

This is an original debt This is a modification

Name and address of Person and/or Company/Municipality making the payment:

Northeast Products Co. Inc.
52 Ferry Street
Fall River, MA

Total Dollar Amount of Receivable \$ 81,132 Due Date: 5/21/09

SEP due? Yes No Date Due _____

Installment Method (if applicable)

INSTALLMENTS OF:

1st \$ _____ on _____

2nd \$ _____ on _____

3rd \$ _____ on _____

4th \$ _____ on _____

5th \$ _____ on _____

For RHC Tracking Purposes:

Copy of Check Received by RHC _____ Notice Sent to Finance _____

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

IFMS Accounts Receivable Control Number _____

If you have any questions call: _____
in the Financial Management Office

Phone Number _____



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
ONE CONGRESS STREET SUITE 1100
BOSTON, MASSACHUSETTS 02114-2023

RECEIVED

2009 APR 21 P 4: 32

EPA ORC
OFFICE OF
REGIONAL HEARING CLERK
BY HAND

April 21, 2009

Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency - Region I
One Congress Street
Suite 1100, Mail Code RAA
Boston, MA 02114-2023

Re: In the Matter of Northeast Products Co. Inc. Docket Nos. CWA-01-2009-0011, EPCRA-01-2009-0012

Dear Ms. Santiago:

Enclosed for filing, please find a Consent Agreement and Final Order (CAFO) settling the matter referenced above.

Pursuant to EPA Order Classification No. 2551.1A dated June 7, 2006, the Regional Hearing Clerk (RHC) shall send a copy of the CAFO in any Clean Water Act (CWA) case assessing a penalty under the authority of Section 311 of the CWA to:

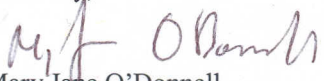
U.S EPA
Cincinnati Finance Center
26 W. Martin Luther King Drive (MS-002)
Cincinnati, OH 45268

In addition, the RHC must pass along the name and address of the regional attorney responsible for any collection recommendation if the civil debt becomes delinquent. For this case, the responsible attorney is:

Mary Jane O'Donnell
Office of Site Remediation & Restoration
EPA Region 1
1 Congress St., Suite 1100 (HBT)
Boston, MA 02114-2023
Tel: 617-918-1371

Thank you for your attention to this matter.

Sincerely,


Mary Jane O'Donnell
Office Site Remediation & Restoration

Enclosure

cc: Alexandra K. Callam Esq. (via email)

In the Matter of Northeast Products Co., Inc.
Docket No. CWA-01-2009-0012; EPCRA-01-2009-0012

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order (CAFO) and Administrative Order by Consent (AOC) were sent to the following persons, in the manner specified, on the date below:

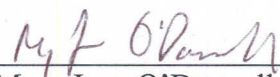
Original and one copy
hand-delivered:

Wanda Santiago
Regional Hearing Clerk
U.S. EPA, Region 1
One Congress Street (RAA)
Boston, MA 02114-2023

Copy of CAFO and AOC
Certified Mail, Return Receipt
Requested

Alexandra K. Callam, Esq.
Hinckley, Allen & Snyder LLP
50 Kennedy Plaza, Suite 1500
Providence, RI 02903

Dated: 4/21/09



Mary Jane O'Donnell, Esq.
Office of Site Remediation and Restoration
U.S. Environmental Protection Agency,
Region 1
One Congress Street, Suite 1100 (HBT)
Boston, MA 02114-2023
Tel: (617) 918-1371
Fax: (617) 918-0371
Email : odonnell.maryjane@epa.gov

In the Matter of Northeast Products Co., Inc.
Docket No. CWA-01-2009-0012; EPCRA-01-2009-0012

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order (CAFO) and Administrative Order by Consent (AOC) were sent to the following persons, in the manner specified, on the date below:

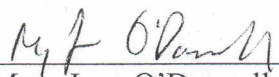
Original and one copy
hand-delivered:

Wanda Santiago
Regional Hearing Clerk
U.S. EPA, Region 1
One Congress Street (RAA)
Boston, MA 02114-2023

Copy of CAFO and AOC
Certified Mail, Return Receipt
Requested

Alexandra K. Callam, Esq.
Hinckley, Allen & Snyder LLP
50 Kennedy Plaza, Suite 1500
Providence, RI 02903

Dated: 4/21/09



Mary Jane O'Donnell, Esq.
Office of Site Remediation and Restoration
U.S. Environmental Protection Agency,
Region 1
One Congress Street, Suite 1100 (HBT)
Boston, MA 02114-2023
Tel: (617) 918-1371
Fax: (617) 918-0371
Email : odonnell.maryjane@epa.gov

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

RECEIVED

2009 APR 21 P 4: 33

EPA ORC
OFFICE OF
REGIONAL HEARING CLERK

IN THE MATTER OF:)

NORTHEAST PRODUCTS CO. INC.)

52 Ferry Street)
Fall River, Massachusetts,)

Respondent.)
_____)

Docket No. CWA-01-2009-0011
EPCRA-01-2009-0012

**CONSENT AGREEMENT AND
FINAL ORDER**

This Consent Agreement and Final Order (“CAFO”) is proposed and entered into under the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) by Section 311(b)(6)(B)(ii) of the Clean Water Act (“CWA” or “Act”), 33 U.S.C. § 1321(b)(6)(B)(ii), as amended by the Oil Pollution Act of 1990, Section 325(c) of the Emergency Planning and Community Right-to-Know Act (“EPCRA”), 42 U.S.C. § 11045(c), and under the authority provided by the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, set forth at 40 C.F.R. Part 22 (“Part 22”).

I. PRELIMINARY STATEMENT

1. EPA initiated this proceeding against Northeast Products Co. Inc. (“Respondent”) pursuant to Section 311(b)(6) of the CWA, 33 U.S.C. § 1321(b)(6), and Section 325(c) of

EPCRA, 42 U.S. C. § 11045(c), by filing an Administrative Complaint, Docket No. CWA-01-2009-0011 and EPCRA-01-2009-0012 (“Complaint”) on December 15, 2008.

2. The Complaint alleges that the Respondent failed to comply with the Oil Pollution Prevention regulations set forth at 40 C.F.R. Part 112, promulgated under the authority of Section 311(j) of the CWA, 33 U.S.C. § 1321(j), and other provisions of the CWA, 33 U.S.C. §§ 1251 et seq. The Complaint also alleges that the Respondent violated Sections 312(a) and 313 of EPCRA, 42 U.S.C. §§ 11022(a) and 11023. The Complaint alleges that these violations had subjected the Respondent to penalties up to the statutory maximum authorized under the CWA and EPCRA.

3. The factual and jurisdictional basis for proposing the assessment of civil penalties is set forth in the Complaint and incorporated herein by reference.

II. CONSENT AGREEMENT

4. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in the Complaint and that the Complaint states a claim upon which relief can be granted against Respondent.

5. Respondent neither admits nor denies the specific factual allegations contained in the Complaint.

6. Respondent certifies that it is in compliance with Section 312 (a) and 313 of EPCRA.

Waiver of Rights

7. Respondent waives any defenses it might have as to jurisdiction and venue and consents to the terms of this CAFO.

8. Respondent waives its right to a judicial or administrative hearing on any issue of law or fact set forth in the Complaint.

9. Respondent waives its right to appeal any Final Order in this matter, and consents to the issuance of a Final Order without further adjudication.

Penalty

10. For the purpose of settlement of this action, Complainant proposes and Respondent consents to the assessment of a civil penalty of \$81,132.

Payment Terms

11. In agreeing to the penalty described in paragraph 10 above, EPA has taken into account the statutory penalty factors at Section 311(b)(8) of the CWA, 33 U.S.C. § 1321(b)(8), and Section 325(b)(1) of EPCRA, 42 U.S. C. § 11045(b)(1). Respondent shall pay a total penalty of \$81,132 which shall be due within 30 calendar days of the effective date of this CAFO. Of this amount, \$54,930 shall represent payment for Respondent's violations of Section 311 of the CWA and \$26,202 shall represent payment for Respondent's violations of Sections 312(a) and 313 of EPCRA.

12. Respondent shall pay the penalty of \$54,930 for violations of Section 311 of the CWA and shall make payment by cashier's or certified check, payable to "Environmental Protection Agency," referencing the title and docket number of the action ("In the Matter of Northeast Products Co. Inc., CWA-01-2009-0011) and Oil Spill Liability Trust Fund – 311."

The payment shall be mailed via regular U.S. Postal Service mail, to:

U.S. Environmental Protection Agency
Fines and Penalties

Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

13. Respondent shall pay the penalty of \$26,202 for EPCRA violations and shall make payment by cashier's or certified check, payable to "Treasurer, United States of America," and referencing the title and docket number of the action ("In the Matter of Northeast Products Co. Inc., EPCRA-01-2009-0012"). The payment shall be mailed via regular U.S. Postal Service Mail, to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

14. Respondent shall simultaneously submit a copy of the check referenced in paragraph 12 and 13 above to the following:

Wanda Rivera
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 1
One Congress Street, Suite 1100 (RAA)
Boston, Massachusetts 02114-2023

and to

Mary Jane O'Donnell, Esq.
Office of Site Remediation and Restoration (HBT)
U.S. Environmental Protection Agency, Region 1
One Congress Street, Suite 1100 (HBT)
Boston, Massachusetts 02114-2023

15. Pursuant to Section 311(b)(6)(H) of the CWA, 33 U.S.C. § 1321(b)(6)(H), and 31 U.S.C. § 3717, failure by the Respondent to pay the penalty amounts relating to the CWA

violations assessed by the CAFO in full by the date required shall subject the Respondent to a civil action to collect the assessed penalty, plus interest, at the prevailing rates from the effective date of the CAFO. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review. Further, under Section 311(b)(6)(H) of the CWA, 33 U.S.C. § 1321(b)(6)(H), if Respondent fails to pay on a timely basis any CWA penalty payment assessed by this CAFO, Respondent shall be required to pay, in addition to such amount and interest, attorneys fees and costs for collection proceedings and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to twenty percent (20%) of the aggregate amount of Respondent's penalties and nonpayment penalties which are unpaid as of the beginning of such quarter. Interest will be assessed pursuant to 31 C.F.R. § 901.9(b), promulgated pursuant to 31 U.S.C. § 3717.

16. With respect to the EPCRA penalty, 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. In the event that any partial payment of the civil penalty, plus interest thereon, is not paid when due without demand, the penalty plus accrued interest shall be payable with additional interest from the original due date to the date of payment, at the rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. §901.9(b)(2). In addition, a penalty charge of six percent per year will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. However, should assessment of the penalty charge on the debt be required, it will be assessed as of the first day payment is due under 31 C.F.R. §901.9(d).

17. The penalties provided for herein are penalties within the meaning of 26 U.S.C. § 162(f) and are not tax deductible for purposes of federal, state, or local law.

18. The provisions of this CAFO shall be binding upon Respondent and Respondent's officers, directors, agents, servants, employees, and successors or assigns.

19. Respondent shall bear its own costs and attorneys fees in this proceeding.

20. This CAFO shall not limit the authority of the United States to enforce the underlying substantive legal requirements of this administrative penalty assessment, whether administratively or judicially.

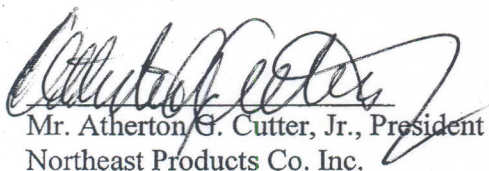
21. This CAFO does not constitute a waiver, suspension or modification of the requirements of the CWA, 33 U.S.C. §§ 1251 et seq. or of EPCRA, 42 U.S.C. § 1101 et seq., or any regulations promulgated thereunder.

22. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Sections 311(b) and (j) of the CWA for the violations of the CWA and for all claims for civil penalties pursuant to Section 325(c) of EPCRA, 42 U.S. C. § 11045(c), for the alleged violations of Sections 312(a) and 313 of EPCRA specifically alleged in the Complaint. Compliance with this CAFO shall not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with such laws and regulations. Respondent understands that this CAFO constitutes a settlement of the civil matters alleged and does not have any applicability to any possible criminal liability, if any, of Respondent or its employees. Nothing in this CAFO shall be construed to limit the

authority of the United States to undertake any action against Respondent in response to conditions which may present an imminent and substantial endangerment to the public.

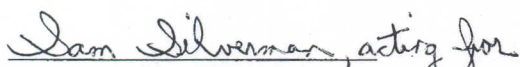
23. The undersigned representative of Respondent certifies that he or she is fully authorized by Respondent to enter into the terms and conditions of this CAFO and legally bind Respondent.

FOR RESPONDENT NORTHEAST PRODUCTS CO., INC.


Mr. Atherton G. Cutter, Jr., President
Northeast Products Co. Inc.

Date: 3/26/09

FOR U.S. ENVIRONMENTAL PROTECTION AGENCY

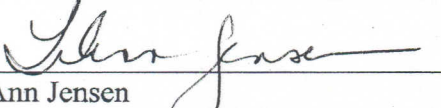

Susan Studlien, Director
Office of Environmental Stewardship
U.S. EPA, Region 1

Date: 4-17-09

III. FINAL ORDER

⁴ 2. In accordance with 40 C.F.R. Part 22, the forgoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. Respondent is ordered to comply with the terms of the referenced Consent Agreement. This Final Order shall become effective 30 days from today pursuant to Section 311(b)(6)(D) of the CWA, 33 U.S.C. § 1321(b)(6)(D).

U.S. ENVIRONMENTAL PROTECTION AGENCY



LeAnn Jensen
Acting Regional Judicial Officer
U.S. EPA, Region 1

Date: _____

4/21/09