

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Steven Schlang 2/20/14
Name of Case Attorney Date

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

Case Docket Number CAA-01-2013-0073

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:

Peter Mirabello
Metal Finishing Technologies, LLC
60 Wooster Court
Forestville, CT 06010

Total Dollar Amount of Receivable \$ 12,400.00 Due Date: 3/22/2014

SEP due? Yes No Date Due 11/17/2014

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



RECEIVED
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I

5 Post Office Square, Suite 100
Boston, Massachusetts 02109-3912

2014 FEB 20 P 10:11
EPA ORC
OFFICE OF
REGIONAL HEARING CLERK

Steven C. Schlang
Enforcement Counsel
617-918-1773 (phone)
617-918-1809 (fax)

February 20, 2014

Wanda I. Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 1
5 Post Office Square
Mail Code – ORA18-1
Boston, Massachusetts 02109-3912

Re: In the Matter of: Metal Finishing Technologies, LLC
Docket Number: CAA-01-2013-0073

Dear Ms. Santiago,

Please find enclosed for filing an original and one copy of a Consent and Final Order resolving the above-matter.

Please do not hesitate to contact me should you have any questions regarding the enclosed.

Sincerely,

Steven C. Schlang

cc: Jim Gaffey
Peter Mirabello.

In the Matter of: Metal Finishing Technologies, LLC
Docket Number CAA-01-2013-0073

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Consent Agreement and Final Order has been sent to the following persons on the date noted below:

Original and one copy
hand delivered:

Wanda Santiago
Regional Hearing Clerk (RAA)
U.S. EPA, Region I
One Congress Street, Suite 1100
Boston, MA 02114-2023

Copy by Certified Mail-
Return Receipt Requested

Peter Mirabello
Metal Finishing Technologies, LLC.
60 Wooster Court
Forestville, CT 06010

Date: February 20, 2014



Steven C. Schlang
Office of Environmental Stewardship U.S.
Environmental Protection Agency
Region I
Five Post Office Square, Suite 100
Mail Code OES04-4
Boston, MA 02109-3219
tel: (617) 918-1773
fax: (617) 918-0773

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1
BEFORE THE ADMINISTRATOR

RECEIVED
FEB 20 P 10:11
EPA ORC
OFFICE OF
REGIONAL HEARING CLERK

Sub

In the Matter of:)
)
Metal Finishing Technologies, Inc.)
60 Wooster Court)
Forestville (Bristol), CT)
)
Respondent.)
)
Proceeding under Section 113(d) of the Clean)
Air Act, 42 U.S.C. § 7413(d);)
)

Docket Numbers
CAA-01-2013-0073

CONSENT AGREEMENT AND FINAL ORDER

Complainant, the United States Environmental Protection Agency ("EPA" or "Complainant"), having filed a Complaint and Notice of Opportunity for Hearing ("Complaint") against Respondent, Metal Finishing Technologies, Inc. ("MFT" or "Respondent") on September 30, 2013;

Respondent having received extensions to file an Answer and Request for Hearing until December 30, 2013; and

Complainant and Respondent (the "Parties") having agreed that settlement of this matter is in the public interest, and that entry of this Consent Agreement and Final Order ("CAFO") without further litigation is the most appropriate means of resolving this matter;

NOW, THEREFORE, before the taking of any testimony, upon the pleading, without adjudication of any issue of fact or law, and upon consent and agreement of the Parties, it is hereby Ordered and Adjudged as follows:

STATUTORY AND REGULATORY AUTHORITY

1. This CAFO resolves an administrative action for the assessment of monetary penalties brought pursuant to Section 113(d) of the Clean Air Act (“CAA”), 42 U.S.C. § 7413(d) and 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 Permit, 40 C.F.R. Part 22.
2. EPA’s Complaint alleged that Respondent failed to comply with Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and its implementing regulations set forth at 40 C.F.R. Part 68, with regard to its management of chlorine gas stored and used at its facility located at 60 Wooster Court, Forestville (Bristol), Connecticut (“Facility”).
3. Specifically, the Complaint alleged that Respondent violated CAA Section 112(r)(7)(E), 42 U.S.C. § 112(r)(7)(E), by failing to: (a) correct its RMP after change in emergency contact (40 C.F.R. §§ 68.15(b) and (c) and 40 C.F.R. § 68.195(b)); (b) comply with process safety information (“PSI”) requirements for the Facility’s RMP (40 C.F.R. § 68.65); (c) perform a complete and accurate process hazard analysis (“PHA”) for Respondent’s chlorine process (40 C.F.R. § 68.67); (d) create or maintain complete written operating procedures (40 C.F.R. § 68.69); (e) adequately train each employee involved in operating procedures (40 C.F.R. § 68.71); (f) comply with mechanical integrity testing requirements for the chlorine process (40 C.F.R. § 68.73); (g) implement a management of change program (40 C.F.R. § 68.75); (h) establish a contractor program (40 C.F.R. § 68.87(b)); (i) fully implement an emergency response plan (“ERP”) for the Facility (40 C.F.R. §§ 68.90 and 68.95); and (j) adequately conduct an off-site consequence analysis for chlorine gas (40 C.F.R. §§ 68.22, 68.25, and 68.28).

TERMS OF SETTLEMENT

4. The provisions of this CAFO shall apply to and be binding on the Parties, their officers, directors, agents, servants, employees, successors and assigns.

5. 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. Respondent waives any defenses it might have as to jurisdiction and venue and, without admitting or denying the factual and legal allegations contained in the Complaint, consents to the terms of this CAFO.

6. Respondent hereby waives its right to a judicial or administrative hearing on any issue of law or fact set forth in the Complaint and waives its right to appeal the Final Order.

7. Respondent certifies that it is currently operating the Facility in compliance with Section 112(r) of the CAA, 42 U.S.C. § 7412(r).

8. Respondent consents to the issuance of this CAFO hereinafter recited and consent for purposes of settlement to the payment of the civil penalty cited in paragraph 26 below and to the performance of the Supplemental Environmental Project ("SEP") hereinafter described.

Supplemental Environmental Project

9. Respondent shall complete the SEP by eliminating the use of chlorine gas at Respondent's Facility ("Chlorine Elimination SEP") and using liquid sodium hypochlorite as a substitute for the chlorine gas. The parties agree that this SEP is intended to secure significant environmental and public health protection and benefits and will protect workers, emergency responders, and the community by eliminating the risk of chlorine gas releases.

10. Respondent shall complete the SEP within two-hundred and seventy days of the effective date of this CAFO (“SEP Completion Date”) and in accordance with Appendix A. The total expenditure for the Chlorine Elimination SEP shall not be less than fifty four thousand dollars (\$54,000). Respondent shall include documentation of the expenditures made in connection with the SEP as part of the SEP Completion Report described below.

11. After completion of the Chlorine Elimination SEP, Respondent shall send an electronic mail message to Jim Gaffey, gaffey.jim@epa.gov, and Steven Schlang, schlang.steven@epa.gov, to confirm that chlorine gas has been eliminated from the Facility’s cyanide destruct process and that liquid sodium hypochlorite is being used in all former chlorine-based operations. Upon completion of the Chlorine Elimination SEP, Respondent shall submit a SEP Completion Report, as specified in paragraph 13 below.

12. Respondent hereby certifies the truth and accuracy of each of the following:

a. that, as of the date of executing this CAFO, Respondent is not required to perform or develop the Chlorine Elimination SEP by any federal, state, or local law or regulation, and are not required to perform or develop the SEP by agreement, grant, or as injunctive relief awarded in any other action in any forum. Respondent specifically certifies as follows:

It is not party to any open federal financial assistance transaction that is funding or could be used to fund the same activity as the Chlorine Elimination SEP. To the best of Respondent’s knowledge and belief after reasonable inquiry, there is no such open federal financial transaction that is funding or could be used to fund the same activity as the SEP, nor has the same activity been described in an unsuccessful federal financial

assistance transaction proposal submitted to EPA within two years of the date of this settlement (unless the project was barred from funding as statutorily ineligible). For the purposes of this certification, the term "open federal financial assistance transaction" refers to a grant, cooperative agreement loan, federally-guaranteed loan guarantee, or other mechanism for providing federal financial assistance whose performance period has not yet expired.

b. that the SEP is not a project that Respondent was planning or intending to construct, perform, or implement other than in settlement of the claims resolved in this CAFO;

c. that Respondent has not received and will not receive credit for the SEP in any other enforcement action; and

d. that Respondent has not received and will not receive any reimbursement for any portion of the SEP from any other person.

13. Respondent shall submit a SEP Completion Report to EPA within thirty (30) days of completion of the Chlorine Elimination SEP. The SEP Completion Report shall contain the following information:

- a. A detailed description of the SEP as implemented;
- b. A description of any implementation problems encountered and the solutions thereto;
- c. Itemized costs, documented by copies of invoices, purchase orders, receipts, canceled checks, or wire transfer records that specifically identify and itemize the individual costs associated with the SEP. Where the SEP Completion Report

includes costs not eligible for SEP credit, those costs must be clearly identified as such;

- d. Certification that the SEP has been fully completed;
- e. A description of the environmental and public health benefits resulting from the implementation of the SEP (with quantification of the benefits and pollutant reductions, if feasible);
- f. A statement that no tax returns filed or to be filed by Respondent will contain deductions or depreciations for any expense associated with the SEP; and
- g. The following statement, signed by Respondent's officer, under penalty of law, attesting that the information contained in the SEP Completion Report is true, accurate, and not misleading:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

14. Respondent shall submit the SEP Completion Report by first class mail or any other commercial delivery service, to:

Steven Schlang
Senior Enforcement Counsel (Mail Code OES 04-4)
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912;

and

Jim Gaffey
Chemical Engineer (Mail Code OES 05-1)
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

15. Respondent shall maintain, for a period of three (3) years from the date of submission of the SEP Completion Report, legible copies of all research, data, and other information upon which the Respondent relied to write the SEP Completion Report and shall provide such documentation within fourteen (14) days of a request from EPA.

16. Respondent agrees that failure to submit the SEP Completion Report shall be deemed a violation of this CAFO, and Respondent shall become liable for stipulated penalties pursuant to paragraph 19 below.

17. After receipt of the SEP Completion Report described in paragraph 13 above, EPA will notify Respondent, within sixty (60) days if EPA resources permit and in writing: (i) identifying any deficiencies in the SEP Completion Report itself and granting Respondent an additional thirty (30) days to correct any deficiencies; or (ii) indicating that the project has been completed satisfactorily; or (iii) determining that the project has not been completed satisfactorily and seeking stipulated penalties in accordance with paragraph 19 herein.

18. If EPA elects to exercise options (i) or (iii) in paragraph 17 above, Respondent may object in writing to the notice of deficiency given pursuant to this paragraph within ten (10) days of receipt of such notice, except that this right to object shall not be available if EPA found that the project was not completed satisfactorily because Respondent failed to implement or abandoned the project. EPA and Respondent shall have an additional thirty (30) days from the receipt by EPA of Respondent's objection to reach agreement on changes necessary to the SEP or SEP Completion Report. If agreement cannot be reached on any such issue within this thirty (30) day period as may be extended by the written agreement of both EPA and Respondent, EPA shall provide a written statement of its decision on adequacy of the completion of the SEP to

Respondent, which decision shall be final and binding upon Respondent. Respondent agrees to comply with any requirements imposed by EPA that are not inconsistent with this CAFO as a result of any failure to comply with the terms of this CAFO. In the event that the SEP is not completed as contemplated herein, as determined by EPA, stipulated penalties shall be due and payable by Respondent in accordance with paragraph 19 herein.

19. In the event that Respondent fails to comply with any of the terms or provisions of this CAFO relating to the performance of the SEP described in paragraphs 9 and 10 above and in Appendix A and/or to the extent that the actual expenditures for the SEP do not equal or exceed the cost of the SEPs, as set forth in paragraph 10 above, Respondent shall be liable for stipulated penalties according to the provisions set forth below:

a. If EPA determines that Respondent completely or substantially failed to implement the Chlorine Elimination SEP in accordance with this CAFO, Respondent shall pay a stipulated penalty to the United States in the amount of sixty seven thousand five hundred dollars (\$67,500), plus interest from the effective date of the CAFO;

b. If EPA determines that Respondent made good faith efforts to complete the Chlorine Elimination SEP in accordance with this CAFO, but Respondent spent less than the amount of money which was required to be spent for the SEP, Respondent shall pay a stipulated penalty to the United States in the amount equal to the difference between the amount of money which was required to be spent on the project, in accordance with paragraph 10, and the actual amount spent on the project, plus interest from the effective date of this CAFO;

c. After giving effect to any extensions of time granted by EPA, Respondent

shall pay a stipulated penalty for each day the SEP Completion Report, required by paragraph 13 is late. Respondent agrees that the stipulated penalty for each late report shall be in the amount of \$500 per day for the first fifteen (15) days of such violation; \$1000 per day for the sixteenth (16th) through thirtieth (30th) day of such violation, and \$1,500 per day for each day of such violation, thereafter.

20. The determination of whether the SEP has been satisfactorily completed shall be in the sole discretion of EPA.

21. Stipulated penalties as set forth in paragraph 19 above shall begin to accrue on the day after performance is due and shall continue to accrue through the final day of the completion of the activity.

22. Respondent shall pay stipulated penalties not more than fifteen (15) days after receipt of written demand by EPA for such penalties. Method of payment shall be as follows: Respondent shall submit a certified or cashier's check payable to the order of the "Treasurer, United States of America," referencing the case name and docket numbers of this action on the face of the check, to:

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

Respondent shall provide copies of each check to:

Wanda Santiago
Regional Hearing Clerk (Mail Code ORA18-1)
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

and

In the Matter of: Metal Finishing Technologies, Inc., No. CAA-01-201-0073
Consent Agreement and Final Order

Steven Schlang
Senior Enforcement Counsel (Mail Code OES 04-4)
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

Interest and late charges shall be paid as stated in paragraph 23 below.

23. 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, as further discussed in paragraph 28 below.

24. Payment of stipulated penalties shall be in addition to any other relief available under federal law. EPA may, in its sole discretion, decide not to seek stipulated penalties or to waive any portion of the stipulated penalties that accrue pursuant to this CAFO.

25. Any public statement, oral or written, in print, film, or other media, made by Respondent or its contractors making reference to the SEP shall include the following language: "This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental Protection Agency for violations of the Clean Air Act."

Civil Penalty

26. Pursuant to Section 113(e) of the CAA, 42 U.S.C. § 7413(e), and taking into account the relevant statutory penalty criteria, the facts alleged in the Complaint, the SEPs described above, and such other circumstances as justice may require, EPA has determined that it is fair and proper to assess a civil penalty of twelve thousand four hundred dollars (\$12,400) for the violations alleged in this matter.

27. Payment Procedure

a. Within thirty (30) days of the effective date of this CAFO, Respondent shall pay the penalty by submitting a cashier's or certified check, made payable to the order of the "Treasurer, United States of America," in the appropriate amount to:

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

b. Respondent shall note the case name and docket numbers on each check and in an accompanying cover letter.

c. Respondent shall provide copies of each check to:

Wanda Santiago
Regional Hearing Clerk (Mail Code ORA18-1)
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

and

Steven Schlang
Senior Enforcement Counsel (Mail Code OES 04-4)
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

28. **Collection of Unpaid CAA Civil Penalty:** In the event that any portion of the civil penalty amount relating to the alleged CAA violations is not paid when due without demand, pursuant to Section 113(d)(5) of the CAA, Respondent will be subject to an action to compel payment, plus interest, enforcement expenses, and a nonpayment penalty. Interest will be

assessed on the civil penalty if it is not paid when due. In that event, interest will accrue from the due date at the “underpayment rate” established pursuant to 26 U.S.C § 6621(a)(2). In the event that a penalty is not paid when due, an additional charge will be assessed to cover the United States’ enforcement expenses, including attorney’s fees and collection costs. In addition, a quarterly nonpayment penalty will be assessed for each quarter during which the failure to pay the penalty persists. Such nonpayment penalty shall be 10 percent of the aggregate amount of Respondent’s outstanding civil penalties and nonpayment penalties hereunder accrued as of the beginning of such quarter. In any such collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

29. The civil penalty provided under this CAFO, and any interest, nonpayment penalties, and charges described in this CAFO, shall represent penalties assessed by EPA within the meaning of 26 U.S.C. § 162(f) and are not tax deductible for purposes of federal, state or local law. Accordingly, Respondent agrees to treat all payments made pursuant to this CAFO as penalties within the meaning of 26 C.F.R. § 1.162-21, and further agrees not to use these payments in any way as, or in furtherance of, a tax deduction under federal, state or local law.

30. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 113(d) of the CAA for the violations alleged in the Complaint. Compliance with this CAFO shall not be a defense to any other actions subsequently commenced pursuant to federal laws and regulations administered by EPA for matters not addressed in the Complaint or this CAFO, and it is the responsibility of Respondent to comply with all applicable provisions of federal, state, or local law.

31. This CAFO in no way relieves Respondent or its employees of any criminal

liability, and EPA reserves all its other criminal and civil enforcement authorities, including the authority to seek injunctive relief and the authority to undertake any action against Respondent in response to conditions which may present an imminent and substantial endangerment to the public health, welfare, or the environment.

32. Nothing in this agreement shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondent's violation of this CAFO or of the statutes and regulations upon which the Complaint and this CAFO is based, or for Respondent's violation of any applicable provision of law.

33. This CAFO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state, or local law; nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.

34. The Parties shall bear their own costs and fees in this action, including attorney's fees, and specifically waive any right to recover such costs from the other parties pursuant to the Equal Access to Justice Act, 5 U.S.C § 504, or other applicable laws.

35. The terms, conditions, and requirements of this CAFO may not be modified without the written agreement of both Parties and approval of the Regional Judicial Officer, except that the Regional Judicial Officer need not approve written agreements modifying the SEP schedule;

36. In accordance with 40 C.F.R. § 22.31(b), the effective date of this CAFO is the date on which it is filed with the Regional Hearing Clerk.

37. Each undersigned representative of the parties to this Consent Agreement certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this CAFO and to execute and legally bind that party to it.

FOR U.S. ENVIRONMENTAL PROTECTION AGENCY:

Sam Silverman, acting for
Susan Studlien, Director
Office of Environmental Stewardship
U.S. Environmental Protection Agency

Date: 2-14-14

FOR RESPONDENT,



Date: 2/11/2014

Nikolaos Giannopoulos
V P of Operations
Metal Finishing Technologies LLC

FINAL ORDER

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. The Respondents are hereby ordered to comply with the terms of the above Consent Agreement, which will be effective on the date it is filed with the Regional Hearing Clerk.

Date:

2/19/14



LeAnn Jensen
Acting Regional Judicial Officer
U.S. Environmental Protection Agency, Region I