

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Mary Jane O'Donnell 8/22/18
Name of Case Attorney Date

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

Case Docket Number EPRA-DI-2018-0037

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:

Gary Cataldo
North Coast Sea-Foods Corp.
43 Blackmer Street
New Bedford, MA

Total Dollar Amount of Receivable \$ 5,000 Due Date: 9/21/18

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 1

RECEIVED

AUG 22 2018

EPA ORC
Office of Regional Hearing Clerk

**EXPEDITED SETTLEMENT AGREEMENT
DOCKET NO: EPCRA-01-2018-0037**

This Expedited Settlement Agreement is issued to:

North Coast Sea-Foods Corp., located at 43 Blackmer Street, New Bedford, Massachusetts, for alleged violations of Section 312 of the Emergency Planning and Community Right-To-Know Act.

This Expedited Settlement Agreement (“ESA”) is being entered into by the United States Environmental Protection Agency (“EPA”), Region 1, by its duly delegated official, and by Respondent, North Coast Sea-Foods Corp. (“Respondent”), pursuant to Section 325(c) of the Emergency and Community Right-to-Know Act (“EPCRA”), 42 U.S.C. § 11045(c), and 40 C.F.R. § 22.13(b).

ALLEGED VIOLATIONS

North Coast Sea-Foods Corp. (“Respondent”) owns or operates a seafood processing, storage, and distribution facility located at 43 Blackmer Street, New Bedford, Massachusetts (“Facility”). The Facility includes a refrigeration system that uses chlorodifluoromethane (sometimes referred to as “R-22”), a type of Freon, as a refrigerant. The Facility also uses and stores liquid nitrogen to flash freeze seafood products, and it also uses forklifts and powerlifts that contain sulfuric acid, among other things, in lead acid batteries. Due to the presence of chlorodifluoromethane, liquid nitrogen, and sulfuric acid, Respondent must have a Safety Data Sheet (“SDS”) on site pursuant to the Occupational Safety and Health Administration’s Hazard Communication Standard. 29 C.F.R. § 1910.1200(g) and 40 C.F.R. § 370.10(a). Facilities that are required to have an SDS and that have hazardous chemicals present on site in amounts greater than the thresholds specified in 40 C.F.R. § 370.10 are subject to the chemical inventory reporting requirements of 40 C.F.R. Part 370. Emergency and hazardous chemical inventory forms (“Tier 2” forms) must be submitted for each calendar year on or before March 1 of the subsequent year, and they must be submitted to the fire department, State Emergency Response Commission, and Local Emergency Planning Committee. 40 C.F.R. §§ 370.44 and 370.45.

Chlorodifluoromethane and liquid nitrogen are hazardous chemicals subject to the annual chemical inventory reporting requirements of 40 C.F.R. Part 370 when present in quantities greater than or equal to 10,000 pounds. 40 C.F.R. § 370.10(a)(2)(i). Sulfuric acid is an extremely hazardous substance subject to the annual chemical inventory reporting requirements of 40 C.F.R. Part 370 when present in quantities greater or equal to 500 pounds. 40 C.F.R. § 370.10(a)(1). Respondent has more than 500 pounds of sulfuric acid and more than 10,000 pounds each of chlorodifluoromethane and liquid nitrogen at the Facility. Respondent failed to timely submit a completed Tier 2 form, as required by Section 312 of EPCRA, 42 U.S.C. § 11022, and the regulations set forth at 40 CFR Part 370. On September 13, 2016, the Facility

emailed a Tier 2 form for reporting year 2015 to Lt. Brian Beaulieu, Town of Westport (representing the Local Emergency Planning Committee), over six months late.

SETTLEMENT

EPA and Respondent agree that settlement of this matter for a penalty of FIVE THOUSAND DOLLARS (\$5,000) is fair, appropriate and in the public interest. In signing this agreement, Respondent (1) admits that it is subject to the requirements of Section 312 of EPCRA; (2) admits that EPA has jurisdiction over Respondent and its conduct as alleged in this ESA; (3) neither admits nor denies the factual allegations contained herein; (4) consents to the assessment of this penalty; and (5) waives its rights to: (a) a judicial or administrative hearing on any issue of law or fact set forth in this ESA; and (b) appeal this ESA. Each party to this action agrees to bear its own costs and fees, if any.

By its signature below, Respondent certifies that the alleged violation has been corrected and agrees to pay the penalty in accordance with the terms of this ESA. Respondent also certifies that it has come into compliance with Section 302 of EPCRA, 42 U.S.C. § 10022, and implementing regulations found in 40 C.F.R. Part 355, Subpart B.

If the signed original ESA is not returned to MaryJane O'Donnell of EPA Region 1 at the address listed below in correct form within 30 days of Respondent's receipt of the proposed ESA, the proposed ESA will be withdrawn, without prejudice to EPA's ability to file an enforcement action for the violations identified herein.

Respondent agrees to submit payment of the penalty within 30 days of the date on which this ESA is filed with the Regional Hearing Clerk. EPA will forward a copy of the fully executed ESA to Respondent as soon as it is filed with the Regional Hearing Clerk. The civil penalty of FIVE THOUSAND DOLLARS (\$5,000) shall be made by remitting a check or making an electronic payment, as described below. The check or other payment shall designate the name and docket number of this case (*In re: North Coast Sea-Foods Corp.*, Docket No. EPCRA-01-2018-0037), be in the amount of \$5,000 and be made payable to "Treasurer, United States of America." The payment shall be remitted as follows:

If remitted by regular U.S. mail:

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

If remitted by any overnight commercial carrier:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, Missouri 63101

If remitted by wire transfer: Any wire transfer must be sent directly to the Federal Reserve Bank in New York City using the following information:

Federal Reserve Bank of New York

ABA = 021030004

Account = 68010727

SWIFT address = FRNYUS33

33 Liberty Street

New York, New York 10045

Field Tag 4200 of the Fedwire message should read

“D 68010727 Environmental Protection Agency”

Concurrently, Respondent must also send copies of the payment to:

MaryJane O'Donnell

U.S. Environmental Protection Agency, Region 1

5 Post Office Square

Mail Code OES 05-4

Boston, MA 02109-3912

and

Wanda Santiago, Regional Hearing Clerk

U.S. Environmental Protection Agency, Region 1

5 Post Office Square

Mail Code ORC 04-6

Boston, MA 02109-3912

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 pay able with additional interest from the original due 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 the first day payment is due under 31 C.F.R. § 901.9(d).

Upon Respondent's submission of the original signed ESA and payment of the penalty as set forth in this ESA, EPA will take no further civil action against Respondent for the alleged violations of EPCRA identified in this ESA. EPA does not waive any right to issue an enforcement action for any other past, present, or future violations by Respondent of EPCRA or any other federal statute or regulation.

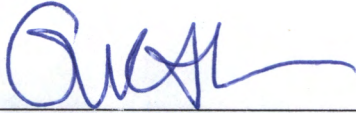
This ESA shall not be construed as a covenant not to sue, release waiver, or limitation of any rights, remedies, powers, or authorities, civil or criminal, that EPA has under EPCRA or any

other statutory, regulatory, or common law enforcement authority of the United States, except as stated above.

The terms of this ESA may not be modified or amended except upon agreement of both parties and approval of the Regional Judicial Officer. This ESA is binding on the parties signing below.

In accordance with 40 CFR § 22.31(b), this ESA is effective upon filing with the Region 1 Hearing Clerk.

FOR RESPONDENT:

By: 

Date: 7/12/18

Name (print): Gary W Cataldo

Title (print): CFO

North Coast Sea-Foods Corp.

FOR COMPLAINANT:

By: 

Date: 8/20/18

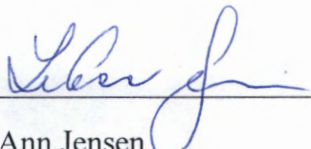
Joanna Jerison, Legal Enforcement Manager
Office of Environmental Stewardship
U.S. EPA Region 1

FINAL ORDER

Pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b)-(c) of EPA's Consolidated Rules of Practice, the attached Expedited Settlement Agreement resolving this matter is incorporated by reference into this Final Order and is hereby ratified.

The Respondent, North Coast Sea-Foods Corp., is hereby ordered to pay the civil penalty amount specified in the Expedited Settlement Agreement in the manner indicated. The terms of the Expedited Settlement Agreement will become effective on the date on which it is filed with the Regional Hearing Clerk.

IT IS SO ORDERED:



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

Date: 8/22/18

Docket No. EPCRA-01-2018-0037

CERTIFICATE OF SERVICE

I hereby certify that on the date noted below, the original and one copy of the Expedited Settlement Agreement in the matter of North Coast Sea-Foods Corp., Docket No. EPCRA-01-2018-0037, were filed with the Regional Hearing Clerk and a copy was sent to Respondent, as set forth below.

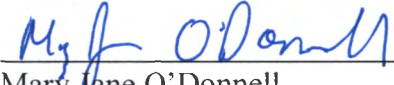
Original and one copy
by hand delivery to:

Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100 (ORA 18-1)
Boston, MA 02109

Copy by certified mail to:

Gary W. Cataldo
Chief Financial Officer
North Coast Sea-Foods Corp.
5 Drydock Avenue
Boston, MA 02210

Date: 8/22/18



Mary Jane O'Donnell
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100 (OES 05-4)
Boston, MA 02109
(617) 918-1371
Odonnell.MaryJane@epa.gov