

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Thomas Olivier 8/24/16
Name of Case Attorney Date

in the ORC (RAA) at 918-1115
Office & Mail Code Phone number

Case Docket Number CAA-01-2016-0053

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:

Kenneth R. Lepage, General Counsel
Watts Regulator Co.
583 South Main Street
Franklin, NH 03235

Total Dollar Amount of Receivable \$ 112,200.00 Due Date: 9/23/16

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

RECEIVED

AUG 24 2016

EPA ORC
Office of Regional Hearing Clerk

BY HAND

August 24, 2016

Wanda I. Santiago, Regional Hearing Clerk
EPA Region 1 – New England
5 Post Office Square, Suite 100 (ORA18-1)
Boston, MA 02109-3912

Re: In the Matter of Watts Regulator Co., Docket No. CAA-01-2016-0053

Dear Ms. Santiago:

Please find enclosed for filing the original and one copy of Consent Agreement and Final Order (“CAFO”) resolving the above-referenced enforcement case. A copy of the CAFO and this cover letter were mailed to the Respondent’s counsel.

Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas T. Olivier".

Thomas T. Olivier
Senior Enforcement Counsel
EPA Region 1

Enclosures

cc: Robert P. Cheney, Jr., Esq. (via email)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

RECEIVED

AUG 24 2016

EPA ORC
Office of Regional Hearing Clerk

In the Matter of:)
)
Watts Regulator Co.)
583 South Main Street)
Franklin, NH 03235)
)
Respondent)
_____)

Docket No. CAA 01-2016-0053

CONSENT AGREEMENT AND FINAL ORDER

The Complainant, United States Environmental Protection Agency, Region I (“EPA”), alleges that Watts Regulator Co., located at 583 South Main Street, Franklin, New Hampshire (“Respondent”) violated certain provisions of: 1) the National Emission Standards for Hazardous Air Pollutants Area Source Standards for Nine Metal Fabrication and Finishing Source Categories, found at 40 C.F.R. Part 63, Subpart XXXXXX (“Subpart 6X”); and 2) the National Emission Standards for Hazardous Air Pollutants: Area Sources Standards for Aluminum, Copper, and Other Nonferrous Foundries, found at 40 C.F.R. Part 63, Subpart ZZZZZZ (“Subpart 6Z”).

EPA and Respondent agree to settlement of this matter through this Consent Agreement and Final Order (“CAFO”) without the filing of an administrative complaint, as authorized under 40 C.F.R. § 22.13(b).

EPA and Respondent agree that entry of this CAFO without further litigation is the most appropriate means of resolving this matter.

Therefore, before taking any testimony, upon the pleadings, without adjudication of any issue of fact or law, and upon consent and agreement of the parties, this matter shall be resolved as follows.

A. PRELIMINARY STATEMENT

1. The provisions of this CAFO shall apply to and be binding upon EPA and upon Respondent and its officers, directors, trustees, successors, and assigns. The “Effective Date” of this CAFO shall be defined as the date that this CAFO is filed with the Regional Hearing Clerk, as described in the Final Order attached to this Consent Agreement.

2. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in this CAFO. Respondent waives any defenses it might have as to jurisdiction and venue. Respondent consents to the terms of this CAFO.

3. Respondent neither admits nor denies the general or specific factual and legal allegations contained below in Section B. For purposes of this CAFO and any action necessary to enforce it, Respondent hereby waives its right to request a judicial or administrative hearing or otherwise to contest the allegations in this CAFO. Respondent waives any right to appeal this CAFO.

Statutory and Regulatory Authorities

4. EPA promulgated Subpart 6X and Subpart 6Z pursuant to Section 112 of the Clean Air Act (“CAA” or the “Act”), 42 U.S.C. § 7412. Regulations promulgated under CAA Section 112 are enforceable by EPA in accordance with Section 113 of the Act, 42 U.S.C. § 7413.

5. EPA asserts that Respondent’s alleged violations described herein render

Respondent liable for penalties under Section 113(d) of the Act. Section 113(d) of the Act, 42 U.S.C. § 7413(d), authorizes EPA to issue an administrative penalty order.

6. EPA has provided notice to Respondent and the New Hampshire Department of Environmental Services (“NHDES”) of EPA’s findings of violations described in this CAFO.

7. The statutory maximum civil penalty under Section 113(d) of the CAA, 42 U.S.C. § 7413(d), has been adjusted over time as required by the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461 note; Pub. L. 101-410, as amended by the Debt Collection Improvement Act of 1996, and most recently, by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, 28 U.S.C. § 2461 note; Pub. L. 114-74, Section 701. The current statutory inflation-adjusted penalty maximum levels are set forth in 40 C.F.R. § 19.4. EPA may assess penalties of up to \$37,500 for each day of each violation of the Act occurring between January 12, 2009 and November 1, 2015. For violations of the Act occurring after November 2, 2015, EPA may assess penalties up to \$44,539 for each day of each violation.

8. Section 113(d) of the Act limits EPA’s authority to issue administrative complaints to matters where the total penalty sought does not exceed \$200,000 and the first alleged date of violation occurred no more than twelve months prior to the initiation of the action, unless the EPA Administrator and the Attorney General for the U.S. Department of Justice (“DOJ”) jointly determine that a matter involving a larger penalty or longer period of violation is appropriate for administrative action. Pursuant to the Debt Collection Improvement Act, and most recently, by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, and its implementing regulations,

the above-described penalty cap has been raised to \$320,000 for violations occurring between January 12, 2009 and November 1, 2015, and to \$356,312 for violations occurring after November 2, 2015.

9. Although the violations alleged in Section B below occurred or commenced more than twelve months ago, EPA and DOJ have jointly determined that this matter is appropriate for administrative action.

B. EPA FINDINGS

General Findings

10. Respondent owns and operates a nonferrous foundry and valve manufacturing facility located at 583 South Main Street, Franklin, New Hampshire (“the facility”). The Respondent’s facility operates two foundry process lines, the “original leaded nonferrous foundry” and the “new low lead nonferrous foundry.” Each process line has a separate set of particulate matter (“PM”) controls.

11. On February 19 and March 29, 2013, Respondent submitted two letters to EPA disclosing potential violations of the CAA. These letters described Respondent’s discovery of the potential violations of Subpart 6X and Subpart 6Z at the above-referenced facility.

12. On November 5, 2015, EPA determined that Respondent’s disclosure did not meet all of the requirements for treatment under EPA’s policy of “Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations.”

13. Concurrently, EPA issued the Respondent a Notice of Violation (“NOV”) for violations of the CAA, specifically violations of Subpart 6X and Subpart 6Z.

14. Respondent is an area source of hazardous air pollutants (“HAP”) as it has

the potential to emit less than 10 tons per year of any single HAP or 25 tons per year of a combination of HAPs.

Specific Findings

VIOLATIONS OF SUBPART 6X REQUIREMENTS

15. The Subpart 6X requirements apply to each area source of HAP that is primarily engaged in nine source categories listed in Table 1 of Subpart 6X. See 40 C.F.R. §63.11514(a).

16. Both foundry process lines at Respondent's facility are subject to Subpart 6X.

Failure to Submit Timely Notifications

17. Subpart 6X requires an affected source to submit an initial notification to EPA. See 40 C.F.R. §63.11519(a)(1). The initial notification for an existing affected source was due on July 25, 2011.

18. Respondent submitted an initial notification to EPA for the Franklin facility on March 29, 2013.

19. Subpart 6X also requires an affected source to submit a notification of compliance status ("NOCS") report to EPA. See 40 C.F.R. §63.11519(a)(2). The NOCS for an existing affected source was due on November 22, 2011.

20. Respondent submitted a notification of compliance status to EPA for the Franklin facility on March 29, 2013.

Failure to Submit Timely Reports

21. Subpart 6X requires an affected source to submit an annual certification and compliance report to EPA. See 40 C.F.R. §63.11519(b). The annual certification and

compliance report is due on January 31.

22. Respondent submitted an annual certification and compliance report for the reporting period of January 2013 through December 2013 on April 2, 2014. This report was due on January 31, 2014.

23. Respondent submitted an annual certification and compliance report for the reporting period of January 2014 through December 2014 on March 10, 2015. This report was due on January 31, 2015.

VIOLATIONS OF SUBPART 6Z REQUIREMENTS

24. The Subpart 6Z requirements apply to the owner or operator of an aluminum foundry, copper foundry, or other nonferrous foundry that is in an area source of HAP and has an annual melt production or annual melt capacity of at least 600 tons per year. See 40 C.F.R. §63.11544(a)

25. Respondent's facility is a nonferrous foundry and has an annual melt production of more than 600 tons per year and as a result is subject to Subpart 6Z.

Failure to Submit Timely Notifications

26. Subpart 6Z requires an affected source to submit a notification of compliance status to EPA. See 40 C.F.R. §63.11553(b). The NOCS for an existing affected source was due on October 25, 2011.

27. Respondent submitted a notification of compliance status to EPA for the Franklin facility on March 29, 2013.

Failure to Conduct Performance Test

28. Subpart 6Z requires affected sources to conduct performance tests. See 40 C.F.R. § 63.11551. The performance tests must be conducted within 180 days of the

compliance date.

29. Respondent conducted a performance test of the original leaded nonferrous foundry in March-April 2009.

30. Respondent requested that the 2009 test data be used to satisfy the performance testing requirement in Subpart 6Z. See 40 C.F.R. § 63.11551(b). EPA reviewed the test report for the 2009 test and determined that the 2009 test did not satisfy the requirements to demonstrate compliance with the emission limits in Subpart 6Z.

31. On October 4, 2013, Respondent conducted a performance test of the new low lead nonferrous foundry. Respondent notified EPA and the NHDES of the intent to test in 2013 and submitted a test protocol. EPA and NHDES were present to observe the testing.

32. Respondent has now satisfied the requirement in Subpart 6Z to conduct an initial performance test on the original leaded nonferrous foundry. The test report indicates that the facility met applicable Subpart 6Z requirements.

C. TERMS OF SETTLEMENT

33. Without admitting or denying the specific factual allegations contained in this CAFO, Respondent consents to the terms and issuance of this CAFO, and consents for the purposes of settlement to the payment of the civil penalty as set forth in this CAFO.

34. Civil Penalty: Taking into account the particular facts and circumstances of this matter, with specific reference to the statutory factors of Section 113(e) of the Act, and other factors, EPA has determined that it is fair and proper to assess a civil penalty for the violations alleged in this CAFO in the total amount of one hundred and twelve

thousand and two hundred dollars (\$112,200). Respondent shall pay the civil penalty no later than thirty (30) days after the Effective Date.

35. Respondent shall make the penalty payment by submitting a bank, cashier's, or certified check, to the order of the "Treasurer, United States of America," in the amounts described in the preceding paragraph to:

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

Respondent may submit penalty payments by via express mail to the following address:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101
Contact: Natalie Pearson
Telephone: 314-418-4087

Respondent shall note the case name and docket number of this action (CAA-01-2016-0053) on the check and in an accompanying cover letter, and shall simultaneously provide copies of the check and cover letter to:

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

and

Thomas Olivier
Senior Enforcement Counsel
U.S. Environmental Protection Agency, Region I
Suite 100, Mail Code OES4-03
5 Post Office Square
Boston, MA 02109-3912

36. Pursuant to Section 113(d)(5) of the CAA, if Respondent fails to pay the penalty amount it will be subject to an action to compel payment, plus interest, enforcement expenses, and a nonpayment penalty. 42 U.S.C. § 7413(d)(5). Interest will be assessed on the penalty if it is not paid by the due date established herein. In that event, interest will accrue from the date the CAFO was signed by the EPA Regional Judicial Officer at the “underpayment rate” established pursuant to 26 U.S.C § 6621(a)(2). In the event that the penalty is not paid when due, an additional charge will be assessed to cover the United States’ enforcement expenses, including attorneys’ fees and collection costs. 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 penalties and nonpayment penalties hereunder accrued as of the beginning of such quarter.

37. 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 a determination of, any issue related to any federal, state, or local permit.

D. GENERAL PROVISIONS

38. The civil penalty under Paragraph 34, above, any interest, and the nonpayment penalties and/or charges as described in Paragraph 36, above, shall represent penalties assessed by EPA and shall not be deductible for purposes of federal taxes, and shall not be deductible for purposes of state, or local taxes unless allowed by law.

39. Payment of the civil penalty, and any interest, non-payment penalties, and/or other charges, does not waive, suspend, or modify the responsibility of Respondent to comply with the requirements of all of the federal laws and regulations

administered by EPA and shall not be a defense to any actions subsequently commenced pursuant to said laws and regulations.

40. This CAFO constitutes a settlement by EPA of all claims against Respondent for civil penalties pursuant to Section 113 of the Act for the violations alleged in Section B of this CAFO. 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 this CAFO, and it is the responsibility of Respondent to comply with all applicable provisions of federal, state, or local law. EPA reserves all its other criminal and civil enforcement authorities, including the authority to seek injunctive relief and the authority to address imminent hazards.

41. Except as described in Paragraph 36, each party shall bear its own costs and fees in this proceeding, including attorney's fees, and specifically waives any right to recover such costs from the other party pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504, or other applicable law.

42. Each party certifies that at least one of their undersigned representatives is fully authorized to enter into the terms and conditions of this CAFO and to execute and legally bind such party to this document.

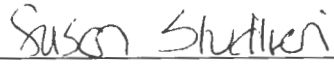
FOR WATTS REGULATOR CO.



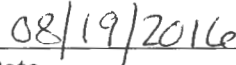
Kenneth R. Lepage
General Counsel and Secretary

Date August 16, 2016

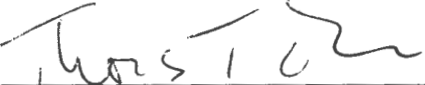
FOR UNITED STATES ENVIRONMENTAL PROTECTION AGENCY



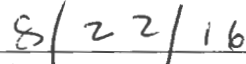
Susan Studlien, Director
Office of Environmental Stewardship
U.S. Environmental Protection Agency, Region I



Date



Thomas Olivier
Senior Enforcement Counsel
U.S. Environmental Protection Agency, Region I



Date

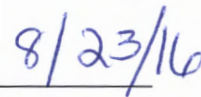
FINAL ORDER

Pursuant to 40 C.F.R. § 22.18(b) of the United States Environmental Protection Agency's Consolidated Rules of Practice, the parties to this matter have forwarded an executed Consent Agreement to me for final approval. In accordance with 40 C.F.R. § 22.18(b) and Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d), the foregoing Consent Agreement resolving this matter is hereby incorporated by reference into this Final Order and is hereby ratified. Respondent, Watts Regulator Co., is ordered to pay the civil penalty amount specified in the Consent Agreement (\$112,200) in the manner indicated. The terms of the Consent Agreement will become effective on the date it is filed with the Regional Hearing Clerk.

U.S. ENVIRONMENTAL PROTECTION AGENCY



Sharon Wells, Regional Judicial Officer
U.S. Environmental Protection Agency, Region 1



Date