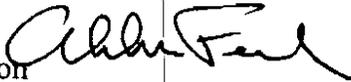


UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

MEMORANDUM

SUBJECT: Consent Agreement and Final Order
IMO NORKA Manufacturing, Inc.
Docket No. RCRA-03-2010-0398

FROM: Abraham Ferdas, Director
Land and Chemicals Division



Marcia E. Mulkey
Regional Counsel



TO: Renée Sarajian
Regional Judicial Officer

The attached Consent Agreement and Final Order concludes a matter initiated by the filing of an Administrative Complaint on September 22, 2010 against NORKA Manufacturing, Inc. ("Norka") pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 C.F.R. Part 22.13(b), for violations of the Resource Conservation and Recovery Act, Subpart C requirements, identified through inspections conducted by representatives of the Pennsylvania Department of Environmental Protection on November 12, 2009 and March 4, 2010.

The attached Final Order directs Respondent to pay a civil penalty in the amount of \$5,000.00. The aforesaid settlement amount was based upon Complainant's consideration of Respondent's ability to pay a penalty as well as the statutory factors set forth in Section 3008(a) of RCRA, 42 U.S.C. 6928(a) and using EPA's 1990 RCRA Penalty Policy.

We recommend that you sign the attached Final Order. After you execute the Final Order, please return the documents to Joyce Howell, x2644, for further processing.

Attachments

cc: Joyce Howell
John Pierson, Esq.

**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III**

In the Matter of:

NORKA Manufacturing, Inc.

Respondent.

NORKA Manufacturing, Inc.
103 E. 5th Street
Watsonstown, PA 17777

Facility

EPA Docket No. RCRA-03-2010-0398

Proceeding under Section 3008(a)
of the Resource Conservation and
Recovery Act, as amended, 42 U.S.C.
Section 6928(a)

CONSENT AGREEMENT

I. PRELIMINARY STATEMENT

1. On September 22, 2010 Director, Land and Chemicals Division, U.S. Environmental Protection Agency, Region III ("Complainant" or "EPA") issued an Administrative Complaint, Compliance Order and Notice of Opportunity for Hearing ("Complaint") against NORKA Manufacturing, Inc. ("Respondent"), pursuant to Section 3008(a)(1) and (g) and Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6928(a)(1) and (g).
2. This Consent Agreement is entered into by Complainant and Respondent in settlement of EPA's claims against Respondent for civil penalties under Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), for the violations alleged in the Complaint.

3. For the purposes of this proceeding, Respondent admits the jurisdictional allegations of the Complaint.
4. Respondent neither admits nor denies the Findings of Fact contained in the Complaint, except as provided in Paragraph 3, above.
5. Respondent neither admits nor denies the Conclusions of Law contained in the Complaint, except as provided in Paragraph 3, above.
6. For the purposes of this proceeding only, Respondent hereby expressly waives its right to a hearing on any issue of law or fact set forth in the Complaint, and any right to appeal the accompanying Final Order.
7. The settlement agreed to by the parties in this Consent Agreement reflects the desire of the parties to resolve this matter without continued litigation.
8. Respondent consents to the issuance of this Consent Agreement and to the attached Final Order and agrees to comply with their terms. Respondent agrees not to contest Complainant's jurisdiction with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement thereof.
9. This Consent Agreement and Final Order resolve only EPA's claims for civil penalties for the specific violations alleged in the Complaint. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice.

10. EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this Consent Agreement and Final Order, following its filing with the Regional Hearing Clerk. Respondent reserves all available rights and defenses it may have to defend itself in any such action.
11. Nothing in this Consent Agreement and Final Order shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, state, and local environmental statutes and regulations.
12. The settlement embodied in this Consent Agreement is based in part upon an analysis of Respondent's ability to pay a civil penalty. This analysis was based upon information submitted to Complainant by the Respondent, as listed on Exhibit A to this Consent Agreement. Respondent and its undersigned representative, by such representative's signature to this Consent Agreement, certify that the information submitted to EPA regarding Respondent's ability to pay is accurate and not misleading.
13. The undersigned representative of Respondent certifies that he is fully authorized to enter into the terms and conditions of this Consent Agreement and bind Respondent hereto. By his signature hereto, such representative certifies that he is fully authorized to enter into the terms and conditions set forth in this Consent Agreement and to bind Respondent hereto.
14. Each party shall bear its own costs and attorney's fees in connection with this proceeding.

II. EPA'S FINDINGS OF FACT AND CONCLUSIONS OF LAW

15. EPA's Findings of Fact and Conclusions of Law set forth in the Complaint are hereby incorporated into this Consent Agreement as if set forth fully herein.

III. CERTIFICATION OF COMPLIANCE

16. As to all relevant provisions of RCRA and the Commonwealth of Pennsylvania's authorized hazardous waste management program allegedly violated as set forth in the Complaint, Respondent certifies to EPA that, upon investigation, to the best of Respondent's knowledge and belief, Respondent is currently in compliance with all such relevant provisions and regulations.

IV. CIVIL PENALTIES

17. In settlement of EPA's claims for civil monetary penalties assessable for the violations alleged in the Complaint and this Consent Agreement, Respondent consents to the assessment of a civil penalty of \$5,000, which Respondent agrees to pay in accordance with the terms set forth below.
18. Having determined that this Consent Agreement is in accordance with law and that the civil penalty amount was determined after consideration of the statutory factors set forth in Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), which include the seriousness of the violation and any good faith efforts to comply with the applicable requirements, EPA hereby agrees and acknowledges that payment of the civil penalty shall be in full and final satisfaction of all civil claims for penalties which Complainant may have under Section 3008(a) of RCRA for the violations alleged in the Complaint.
19. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest, administrative costs and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below.

20. In accordance with 40 C.F.R. § 13.11(a), interest on any civil penalty assessed in a Consent Agreement and Final Order begins to accrue on the date that a copy of the Consent Agreement and Final Order is mailed or hand-delivered to the Respondent. However, EPA will not seek to recover interest on any amount of such civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).
21. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
22. A late payment penalty of six percent per year will be assessed monthly on any portion of a civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on a debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
23. If Respondent pays the entire civil penalty within thirty (30) calendar days of the date on which this CAFO is mailed or hand-delivered to Respondent, no interest will be assessed against Respondent pursuant to 40 C.F.R. § 13.11(a)(1).
24. Payment of the civil penalty amount described in Paragraph 17 above, shall be made by either cashier's check, certified check or electronic wire transfer, in the following manner:

a. All payments by Respondent shall reference its name and address, and the Docket Number of this action, i.e., Docket No. RCRA-2010-0398.

b. All checks shall be made payable to "United States Treasury";

c. All payments made by check and sent by regular mail shall be addressed and mailed to:

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

Contact: Eric Volck 513-487-2105

d. All payments made by check and sent by overnight delivery service shall be addressed and mailed to:

U.S. Bank
Government Lockbox 979077
U.S. EPA, Fines & Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

Contact: 314-418-1028

e. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance
US EPA, MS-NWD
26 W. M.L. King Drive
Cincinnati, OH 45268-0001

f. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York
ABA = 021030004
Account No. = 68010727

SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

- g. All electronic payments made through the automated clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX / Cashlink ACH Receiver
ABA = 051036706
Account No.: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 - Checking

Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737
Contact: Jesse White 301-887-6548 or REX, 1-866-234-5681

- h. On-Line Payment Option:

WWW.PAY.GOV

Enter sfo 1.1 in the search field. Open and complete the form.

- i. Additional payment guidance is available at:

http://www.epa.gov/ocfo/finservices/make_a_payment_.htm

- j. A copy of Respondent's check or a copy of Respondent's electronic fund transfer shall be sent simultaneously to:

Joyce A. Howell
Assistant Regional Counsel
U.S. Environmental Protection Agency
Region III (Mail Code 3RC30)
1650 Arch Street
Philadelphia, PA 19103-2029

and

Ms. Lydia Guy
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region III (Mail Code 3RC00)
1650 Arch Street
Philadelphia, PA 19103-2029

V. EFFECTIVE DATE

25. This CAFO shall become effective upon filing with the Regional Hearing Clerk.

For Respondent:

NORKA Manufacturing, Inc.

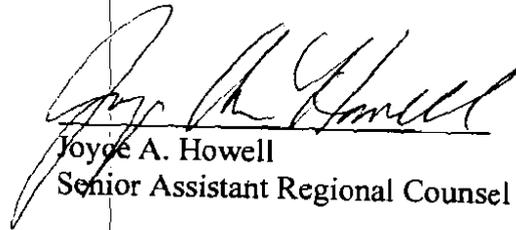
Dec 14th 2010
Date


Kevin J. Boyer
Secretary/ Treasurer
Norka Manufacturing, Inc.

For Complainant:

U.S. Environmental Protection Agency,
Region III

12/16/2010
Date


Joyce A. Howell
Senior Assistant Regional Counsel

After reviewing the foregoing Consent Agreement and other pertinent information, the Director, Land and Chemicals Division, EPA Region III, recommends that the Regional Administrator or the Regional Judicial Officer issue the Final Order attached hereto.

Date: 12/21/10

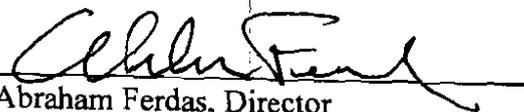
By: 
Abraham Ferdas, Director
Land and Chemicals Division

Exhibit A

Norka Manufacturing, Inc.'s U.S. Income Tax Returns for the years 2004 – 2008.

Corporate Debtor form completed by Kevin J. Royer, Secretary/Treasurer, Norka Manufacturing, Inc.

Norka Manufacturing, Inc.'s Corporate Balance Sheets for the years 2004 – 2009.

Letter from Thomas E. Collier, CPA, as enclosure to letter from John C. Pierson, Esq. dated November 24, 2010.

**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III**

In the Matter of:

NORKA Manufacturing, Inc.

Respondent.

NORKA Manufacturing, Inc.

103 E. 5th Street

Watsontown, PA 17777

Facility

EPA Docket No. RCRA-03-2010-0398

FINAL ORDER

Complainant, the Director, Land and Chemicals Division, U.S. Environmental Protection Agency, Region III, and Respondent, NORKA Manufacturing, Inc., have executed a document entitled "Consent Agreement" which I hereby ratify in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/ Termination or Suspension of Permits* ("Consolidated Rules of Practice"), 40 C.F.R. Part 22. The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

NOW, THEREFORE, PURSUANT TO Section 3008(a) of the Resource Conservation and Recovery Act of 1976, as amended by, inter alia, the Hazardous and Solid Waste Amendments of 1984 (RCRA), 42 U.S.C. Section 6928(a), and the Consolidated Rules of Practice, and having determined, on the basis of the parties' representations in the Consent Agreement, that the penalty agreed to therein by the parties is based on a consideration of the factors set forth in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3),

It is hereby ordered that Respondent pay \$5,000.00 in accordance with the Consent Agreement and comply with the terms and conditions of this Consent Agreement.

The effective date of this Consent Agreement and Final Order is the date on which such Final Order is filed with the Regional Hearing Clerk.

12/22/10
Date


Renee Sarajian
Regional Judicial Officer

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103

In the Matter of:

NORKA Manufacturing, Inc.

Respondent.

NORKA Manufacturing, Inc.
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EPA Docket No. RCRA-03-2010-0398

CERTIFICATE OF SERVICE

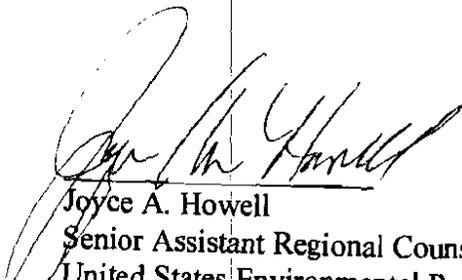
I certify that on the date noted below, I sent by UPS, overnight delivery, a copy of the CONSENT AGREEMENT AND FINAL ORDER to the addressee listed below. The original and two copies of the same were hand-delivered to the Regional Hearing Clerk, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103-2029.

Hon. Susan L. Biro
Chief Administrative Law Judge
United States Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Mail Code 1900L
Washington, DC 20460-2001

John C. Pierson, Esq.
Twin Oaks Estate
1221 W. Market Street
Akron, Ohio 44313-7107

Date:

Dec. 22, 2010


Joyce A. Howell
Senior Assistant Regional Counsel
United States Environmental Protection Agency