

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Tonia Bandrowicz 6/11/15
Name of Case Attorney Date

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

Case Docket Number CWA-01-2015-0048

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:

Davey Oil Company
147 Northside Drive
Bennington, VT 05201

Total Dollar Amount of Receivable \$ 8,200 Due Date: 7/11/15

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

VIA HAND DELIVERY

June 11, 2015

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

RECEIVED

JUN 11 2015

EPA ORC WS
Office of Regional Hearing Clerk

Re: In the Matter of Davey Oil Company, Inc., Bennington, Vermont 05201
Docket No. CWA-01-2015-0048

Dear Ms. Santiago,

Enclosed for filing, please find an Expedited Settlement Agreement (ESA) 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 ESA 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:

Tonia Bandrowicz
Senior Enforcement Counsel
U.S. Environmental Protection Agency – Region 1
5 Post Office Square, Suite 100
Mail Code OES04-3
Boston, MA 02109-3912

Tel: (617) 918-1734

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script that reads "Heather L. Thompson". The signature is written in black ink and is positioned above the printed name.

Heather L. Thompson
OES Legal Office

Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1, 5 POST OFFICE SQUARE, BOSTON, MASSACHUSETTS 02109-3912

EXPEDITED SPCC SETTLEMENT AGREEMENT

Docket No. CWA-01-2015-0048

On September 24, 2014, an authorized representative of the United States Environmental Protection Agency ("EPA") conducted an inspection at Davey Oil Company, Inc., located at 147 Northside Drive, Bennington, VT ("Respondent") to determine compliance with the Oil Pollution Prevention regulations promulgated at 40 C.F.R. part 112 under Section 311(j) of the Clean Water Act (the "Act"), 33 U.S.C. § 1321(j). EPA determined that Respondent, as owner or operator of the facility, violated regulations implementing Section 311(j) of the Act by failing to comply with the Oil Pollution Prevention regulations as noted on the attached Spill Prevention Control and Countermeasure Plan ("SPCC") Inspection Findings and Violations Form ("Violations Form") which is hereby incorporated by reference. By its first signature below, EPA ratifies the Inspection Findings and Violations set forth in the Violations Form.

The parties enter into this Expedited Settlement in order to settle the civil violations described in the Violations Form for a penalty of \$8,200. The parties are authorized to enter into this Expedited Settlement under the authority of Section 311(b) (6) (B) (i) of the Act, 33 U.S.C. § 1321(b) (6) (B) (i), and by 40 C.F.R. § 22.13(b).

This settlement is subject to the following terms and conditions:

EPA finds the Respondent is subject to the Oil Pollution Prevention regulations, and has violated the regulations as further described in the Violations Form. Respondent admits it is subject to the Oil Pollution Prevention regulations and that EPA has jurisdiction over Respondent's conduct as described in the Violations Form. Respondent admits to the facts in the first paragraph of this Settlement Agreement, and waives any objections it may have to EPA's jurisdiction. Respondent consents to the assessment of the penalty stated above.

Respondent further certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that the violations identified in the Violations Form have been corrected and the facility is now in full compliance with the Oil Pollution Prevention regulations (or that the violations will be corrected and the facility brought in full compliance with the Oil Pollution Prevention regulations within an alternative time frame agreed to by EPA in writing). Respondent has sent a certified check in the amount of \$8,200, payable to the Environmental Protection Agency, to: U.S. Environmental Protection Agency, Fines and Penalties, P.O. Box 979077, St. Louis, MO 63197-9000. This check shall reference the docket number of the case and the "Oil Spill Liability Trust Fund - 311." Respondent shall send a copy of the check to Heather Thompson, Environmental Protection Agency, Region 1, 5 Post Office Square (OES04-4), Boston, Massachusetts 02109-3912, and to the Regional Hearing Clerk, Environmental Protection Agency, Region 1, 5 Post Office Square (ORC-18), Boston, Massachusetts 02109-3912.

Upon signing and returning this Expedited Settlement to EPA, Respondent waives the opportunity for a hearing or appeal pursuant to Section 311 of the Act, and consents to EPA's approval of the Expedited Settlement without further notice.

This Expedited Settlement is binding on the parties signing below, and is effective upon filing with the Regional Hearing Clerk pursuant to 40 C.F.R. § 22.31(b).

Once the Expedited Settlement is signed by the Regional Judicial Officer, the original Expedited Settlement will be filed with the Regional Hearing Clerk and a copy will be mailed to: U.S. EPA Cincinnati Finance Office, 26 W. Martin Luther King Drive (MS-002), Cincinnati, OH 45268. A copy of the Expedited Settlement will also be mailed to the Respondent.

If Respondent does not sign and return this Expedited Settlement as presented within 30 days of the date of its receipt, the proposed Expedited Settlement is withdrawn without prejudice to EPA's ability to file any other enforcement action for the violations identified in the Violations Form.

After this Expedited Settlement becomes effective, EPA will take no further civil penalty action against Respondent for the violations of the Oil Pollution Prevention regulations described in the Violations Form through the order date of this Expedited Agreement. However, EPA does not waive any rights to take any enforcement action for any other past, present, or future violations by Respondent of the Oil Pollution Prevention regulations or of any other federal statute or regulations.

APPROVED BY EPA:

Joanna Jerison Date: 5/7/15
Joanna Jerison, Legal Enforcement Manager
Office of Environmental Stewardship

APPROVED BY RESPONDENT:

Name (print): *Patricia Davey Lyons*
Title (print): *Pres.*
Signature: *Patricia Davey Lyons 6/1/15*

IT IS SO ORDERED:

LeAnn Jensen Date: 6/10/15
LeAnn Jensen
Acting Regional Judicial Officer

RECEIVED

JUN 11 2015

EPA ORC *WS*
Office of Regional Hearing Clerk

**Oil Spill Prevention Control and Countermeasure
Inspection Findings and Violations Form**

Company Name: Davey Oil Company, Inc.		Docket Number:
Facility Name: S.A.A.		Date of Inspection: September 24, 2014
Address: 147 Northside Drive		
City: Bennington	Inspector's Name: Jerry Keefe, Oil Spill Prevention Inspector	
State: VT	Zip Code: 05201	Enforcement Contact: Joseph Canzano, Oil Spill Prevention Compliance Coordinator Tel: 617-918-1763
Facility Contact: Patricia Lyons, President		(802) 442-4777



Summary of Findings

On September 24, 2014, EPA conducted inspections at the facility. The facility, at the time of the inspections, failed to have an up-to-date SPCC Plan. The SPCC Plan had not been reviewed by management once every 5 years for two review cycles, it failed to include management's signature, and did not include a substantial harm determination certification. In addition, the facility was not able to provide EPA's inspector with oil tank inspection and or oil handling personnel training records. Also, EPA observed certain oil tanks and a fuel-oil loading rack without sized secondary containment, certain oil tanks without signage and with corrosion.

On December 15, 2014, EPA sent the facility a Request for Information (Docket No. 15-308-008). Since EPA's inspection the facility has initiated immediate on-the-ground improvements, and on January 15, 2015, responded to EPA's Request; and on February 27, 2015 submitted an amended SPCC Plan. The facility's January 15, 2015 response includes an itemized list of site improvements with a final compliance date of October 31, 2015. EPA approves of the schedule to complete the listed site improvements.

The facility stores more than 69,000 gallons of oil (kerosene, off-road and on-road diesel, and No. 2) aboveground and includes one loading rack and multiply fuel dispenser stations. An oil spill has reasonable potential to flow overland to Furnace Brook and or to the Walloomsac River.

(Bulk Storage Facilities)

GENERAL TOPICS: 40 CFR 112.3(a), (d), (e); 112.5(a), (b), (c); 112.7 (a), (b), (c), (d)

- No Spill Prevention Control and Countermeasure Plan-112.3
- Plan not certified by a professional engineer- 112.3(d)
- Certification lacks one or more required elements - 112.3(d)(1)
- No management approval of plan- 112.7
The March 2003 SPCC Plan (“the Plan”), provided to EPA for review, was not signed by management.
- Plan not maintained on site (if manned at least four (4) hrs/day) or not available for review - 112.3(e)(1)
- No evidence of five-year review of plan by owner/operator- 112.5(b)
The March 2003 Plan had not been reviewed by management for two review cycles, i.e., 1st review March 2008, and 2nd review March 2013.
- No plan amendment(s) if the facility has had a change in: design, construction, operation, or maintenance which affects the facility’s discharge potential- 112.5(a)
- Amendment(s) not certified by a professional engineer- 112.5(c)
- Plan does not follow sequence of the rule and/or cross-reference not provided- 112.7
- Plan does not discuss additional procedures/methods/equipment not yet fully operational- 112.7
- Plan does not discuss alternative environmental protection to SPCC requirements- 112.7(a)(2)
- Plan has inadequate or no facility diagram- 112.7(a)(3)
- Inadequate or no listing of type of oil and storage capacity layout of containers- 112.7(a)(3)(i)
- Inadequate or no discharge prevention measures- 112.7(a)(3)(ii)
- Inadequate or no description of drainage controls- 112.7(a)(3)(iii)
- Inadequate or no description of countermeasures for discharge discovery, response and cleanup- 112.7(a)(3)(iv)
- Recovered materials not disposed of in accordance with legal requirements- 112.7(a)(3)(v)
- No contact list & phone numbers for response & reporting discharges- 112.7(a)(3)(vi)
- Plan has inadequate or no information and procedures for reporting a discharge- 112.7(a)(4)
- Plan has inadequate or no description and procedures to use when a discharge may occur- 112.7(a)(5)
- Inadequate or no prediction of equipment failure which could result in discharges- 112.7(b)

- Plan does not discuss and facility does not implement appropriate containment/diversionary structures/equipment- 112.7(c)

- If claiming impracticability of appropriate containment/diversionary structures:

- Impracticability has not been clearly denoted and demonstrated in plan- 112.7(d)
- No contingency plan- 112.7(d)(1)
- No written commitment of manpower, equipment, and materials- 112.7(d)(2)
- No periodic integrity and leak testing, if impracticability is claimed - 112.7(d)
- Plan has no or inadequate discussion of general requirements not already specified-112.7(j)

QUALIFIED FACILITY REQUIREMENTS: 112.6

- Qualified Facility: No Self certification- 112.6(a)(1)(Tier I) or (b)(1)(Tier II)
- Qualified Facility: Self certification lacks required elements- 112.6(a)(1)(Tier I) or (b)(1)(Tier II)
- Qualified Facility: Technical amendments not certified- 112.6(a)(2)(Tier I) or (b)(2)(Tier II)
- Qualified Facility: Un-allowed deviations from requirements- 112.6(a)(Tier I) or (b)(Tier II)
- Qualified Facility: Environmental Equivalence or Impracticability not certified by PE- 112.6(b)(3)(Tier II)

WRITTEN PROCEDURES AND INSPECTION RECORDS 112.7(e)

- Plan does not include inspections and test procedures in accordance with 40 CFR Part 112 - 112.7(e)
- Inspections and tests required are not in accordance with written procedures developed for the facility- 112.7(e)
- No inspection records available for review - 112.7(e)

The facility was not able to provide to EPA tank inspection records.

- Are not signed by appropriate supervisor or inspector- 112.7(e)
- Are not maintained for three years- 112.7(e)

PERSONNEL TRAINING AND DISCHARGE PREVENTION PROCEDURES 112.7(f)

- No training on the operation and maintenance of equipment to prevent discharges and or facility operations - 112.7(f)(1)
- No training on discharge procedure protocols- 112.7(f)(1)

- No training on the applicable pollution control laws, rules, and regulations and/or SPCC plan- 112.7(f)(1)
The facility was not able to provide to EPA record of training for all oil-handling personnel.
- Training records not maintained for 3 years- 112.7(f)(1)
- No designated person accountable for spill prevention- 112.7(f)(2)
- Spill prevention briefings are not scheduled and conducted at least annually- 112.7(f)(3)
- Plan has inadequate or no discussion of personnel and spill prevention procedures-112.7(a)(1)

SECURITY (excluding Production Facilities) 112.7(g)

- Master flow and drain valves that permit direct outward flow to the surface are not secured in closed position when in a non-operating or standby status- 112.7(g).
- Starter controls on pumps are not locked in the “off” position or located at a site accessible only to authorized personnel when pumps are not in a non-operating or standby status- 112.7(g)
- Loading and unloading connection(s) of piping/pipelines are not capped or blank-flanged when not in service or standby status- 112.7(g)
- Facility lighting not adequate to facilitate the discovery of spills during hours of darkness and to deter vandalism- 112.7(g)
- Plan has inadequate or no discussion of facility security-112.7(a)(1), (g)

FACILITY TANK CAR AND TANK TRUCK LOADING/UNLOADING 112.7(c) and/or (h-j)

- Inadequate containment for Loading Area (not consistent with 112.7(c)) - 112.7(c)
- Inadequate secondary containment, and/or rack drainage does not flow to catchment basin, treatment system, or quick drainage system- 112.7(h)(1)
EPA observed the facility’s loading rack without sized secondary containment.
- Containment system does not hold at least the maximum capacity of the largest single compartment of any tank car or tank truck- 112.7(h)(1)
- There are no interlocked warning lights, or physical barrier system, or warning signs, or vehicle brake interlock system to prevent vehicular departure before complete disconnect from transfer lines- 112.7(h)(2)
- There is no inspection of lowermost drains and all outlets prior to filling and departure of any tank car or tank truck- 112.7(h)(3)
- Plan has inadequate or no discussion of facility tank car and tank truck loading/unloading rack-112.7(a)(1)

QUALIFIED OIL OPERATIONAL EQUIPMENT 112.7(k)

- Failure to establish and document procedures for inspections or a monitoring program to detect equipment failure and/or a discharge- 112.7(k)(2)(i)
- Failure to provide an oil spill contingency plan- 112.7(k)(2)(ii)(A)
- No written commitment of manpower, equipment, and materials- 112.7(k)(2)(ii)(B)

FACILITY DRAINAGE 112.8(b) & (c)

- Secondary Containment circumvented due to containment bypass valves left open and/or pumps and ejectors not manually activated to prevent a discharge- 112.8(b)(1)&(2) and 112.8(c)(3)(i)
- Dike water is not inspected prior to discharge and/or valves not open & resealed under responsible supervision- 112.8(c)(3)(ii)&(iii)
- Adequate records (or NPDES permit records) of drainage from diked areas not maintained- 112.8(c)(3)(iv)
- Drainage from undiked areas do not flow into catchment basins ponds, or lagoons, or no diversion systems to retain or return a discharge to the facility- 112.8(b)(3)&(4)
- Two "lift" pumps are not provided for more than one treatment unit- 112.8(b)(5)
- Plan has inadequate or no discussion of facility drainage-112.7(a)(1)

BULK STORAGE CONTAINERS 112.8(c)

- Plan has inadequate or no risk analysis and/or evaluation of field-constructed aboveground tanks for brittle fracture - 112.7(i)
- Failure to conduct evaluation of field-constructed aboveground tanks for brittle fracture- 112.7(i)
- Material and construction of tanks not compatible to the oil stored and the conditions of storage such as pressure and temperature - 112.8(c)(1)
- Secondary containment appears to be inadequate - 112.8(c)(2)
EPA observed numerous oil tanks throughout the facility lacking sized secondary containment.
- Containment systems, including walls and floors are not sufficiently impervious to contain oil - 112.8(c)(2)
- Excessive vegetation which affects the integrity
- Walls of containment system slightly eroded or have low areas
- Completely buried tanks are not protected from corrosion or are not subjected to regular pressure testing - 112.8(c)(4)
- Partially buried tanks do not have buried sections protected from corrosion- 112.8(c)(5)
- Aboveground tanks are subject to visual inspections - 112.8(c)(6)

- Aboveground tanks are subject to periodic integrity testing, such as hydrostatic, nondestructive methods, etc. - 112.8(c)(6)

The Plan did not include a schedule for tanks and piping inspections for integrity in accordance with specified industrial standards and specification.

- Records of inspections (or customary business records) do not include inspections of tank supports/foundation, deterioration, discharges and/or accumulations of oil inside diked areas- 112.8(c)(6)
 - Steam return /exhaust of internal heating coils which discharge into an open water course are not monitored, passed through a settling tank, skimmer, or other separation system- 112.8(c)(7)
 - Tank battery installations are not in accordance with good engineering practice because none of the following are present- 112.8(c)(8)
 - No testing of liquid level sensing devices to ensure proper operation- 112.8(c)(8)(v)
 - Effluent treatment facilities which discharge directly to navigable waters are not observed frequently to detect oil spills- 112.8(c)(9)
 - Causes of leaks resulting in accumulations of oil in diked areas are not promptly corrected- 112.8(c)(10)
 - Mobile or portable storage containers are not positioned to prevent discharged oil from reaching Waters of the U.S. - 112.8(c)(11)
- EPA observed oil tanker trucks (mobile refuelers) not positioned in areas throughout the facility to prevent an oil discharge to surface waters, and the Plan was silent on the matter.***
- Secondary containment inadequate for mobile or portable storage tanks- 112.8(c)(11)
 - Plan has inadequate or no discussion of bulk storage tanks-112.7(a)(1)

FACILITY TRANSFER OPERATIONS, PUMPING, AND FACILITY PROCESS 112.8(d)

-
- Buried piping is not corrosion protected with protective wrapping, coating, or cathodic protection -112.8(d)(1)
 - Corrective action is not taken on exposed sections of buried piping when deterioration is found- 112.8(d)(1)
 - Not-in-service or standby piping are not capped or blank-flanged and marked as to origin- 112.8(d)(2)
 - Pipe supports are not properly designed to minimize abrasion and corrosion, and allow for expansion and contraction- 112.8(d)(3)
 - Aboveground valves, piping and appurtenances are not inspected regularly- 112.8(d)(4)
 - Periodic integrity and leak testing of buried piping is not conducted- 112.8(d)(4)
 - Vehicle traffic is not warned of aboveground piping or other oil transfer operations- 112.8(d)(5)
 - Plan has inadequate or no discussion of facility transfer operations, pumping, and facility process-112.7(a)(1)
 - Plan does not include a signed copy of the Certification of Applicability of the Substantial Harm Criteria-112.20(e)

End of Checklist.

In the Matter of Davey Oil Company, Inc.
EPA Docket No. CWA-01-2015-0048

CERTIFICATE OF SERVICE

I certify that the foregoing Expedited Settlement Agreement was transmitted to the following persons, in the manner specified, on the date below:

Original and one copy
hand-delivered:

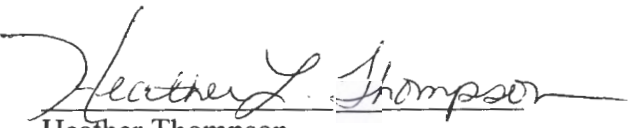
Wanda Santiago
Regional Hearing Clerk
U.S. EPA, Region I
5 Post Office Square, Suite 100
Boston, MA 02109-3912

Copy by certified mail,
return receipt requested:

Robert E. Cummings, Jr., Esq.
Cummings and Dailey, LLP
125 Elm Street
Bennington, VT 05201-0061

Patricia Lyons, President
Davey Oil Company, Inc.
147 Northside Drive
Bennington, VT 05201

Dated: 6/11/15


Heather Thompson
Office of Environmental Stewardship
U.S. Environmental Protection Agency,
Region I
5 Post Office Square, Suite 100
Boston, MA 02109-3912
Phone: (617) 918-1320
Fax: (617) 918-320



DOCKET #

Cashier's Check

Reference Oil Spill Liability Trust Fund 311 Date _____

001 0200

Pay

To the Order of

CASHIER'S CHECK

[Signature]
Authorized Signature

Notice to Customers: The purchase of an indemnity bond may be required before this check will be replaced or refunded in the event it is lost, misplaced or stolen.

Member FDIC CK-002

⑈8269289⑈ ⑆221172186⑆ ⑈17000295⑈