

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Andrea Simpson 1/21/14
Name of Case Attorney Date

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

Case Docket Number TSCA-01-2013-0010

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:

New Hampshire Plate Glass Corp
1 Mirona Road
Portsmouth, NH 03801

Total Dollar Amount of Receivable \$ 10,890 Due Date: 2/20/14

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

January 21, 2014

Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 1 (ORA 18-1)
5 Post Office Square
Boston, Massachusetts 02140

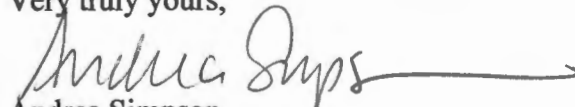
Re: In the Matter of New Hampshire Plate Glass Corp.;
Docket No. TSCA-01-2013-0010

Dear Ms. Santiago:

Enclosed for filing in the above-referenced matter, please find the original and one copy of the Consent Agreement and Final Order.

Thank you for your assistance in this matter.

Very truly yours,


Andrea Simpson
Senior Enforcement Counsel

cc: Richard Gagliuso, Esq.

Enclosure

EPA ORC
OFFICE OF
REGIONAL HEARING CLERK

2013 JAN 21 A 4: 46

RECEIVED

CERTIFICATE OF SERVICE

I hereby certify that on the date noted below, the original and one copy of the Consent Agreement and Final Order in the matter of NH Plate Glass Corp., Docket No. TSCA-01-2013-0010, were filed with the Regional Hearing Clerk and a copy was sent to Respondent's counsel, as set forth below. In addition, a copy was sent by pouch mail and one copy by electronic mail to the Office of Administrative Law Judges, as set forth below:

Original and one copy
by hand delivery to:

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

Copy by pouch mail to:

Honorable Christine D. Coughlin
Administrative Law Judge
Office of Administrative Law Judges
U.S. Environmental Protection Agency
Mail Code 1900L
1200 Pennsylvania Avenue
Washington, D.C. 20460

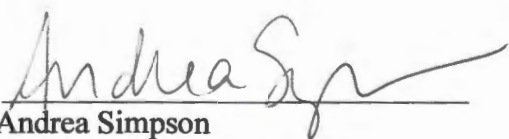
Copy by electronic mail to:

Headquarters Hearing Clerk
OALJ filing@epa.gov

Copy by certified mail to:

Richard C. Gagliuso, Esq.
Gagliuso & Gagliuso, PA
32 Daniel Webster Highway, Suite 14
Merrimack, NH 03054
rgagliuso@gagliuso.com

Date: 1/21/14


Andrea Simpson
Senior Enforcement Counsel
U.S. Environmental Protection Agency
Region 1
5 Post Office Square, Suite 100
Boston, MA 02109

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1
BEFORE THE ADMINISTRATOR**

In the Matter of:)

New Hampshire Plate Glass Corp.)
1 Mirona Road)
Portsmouth, NH 03801)

Respondent.)
_____)

Docket No. TSCA-01-2013-0010

CONSENT AGREEMENT AND FINAL ORDER

Complainant, the United States Environmental Protection Agency (“EPA”), and Respondent, New Hampshire Plate Glass Corp. (“Respondent”), have 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.

I. PRELIMINARY STATEMENT

1. EPA initiated this proceeding against Respondent pursuant to Section 16 of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. § 2615, by filing an Administrative Complaint Docket No. TSCA-01-2013-0010 (“Complaint”).

2. The Complaint alleges that Respondent violated Section 409 of TSCA, 15 U.S.C. § 2689, the Residential Lead-Based Paint Hazard Reduction Act of 1992 (“the Act”), 42 U.S.C. § 4851 *et seq.*, and the federal regulations promulgated thereunder, entitled “Residential Property Renovation,” as set forth at 40 C.F.R. Part 745, Subpart E.

3. The provisions of this CAFO shall apply to and be binding on Respondent, its successors and assigns.

4. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in the Complaint. 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. The parties acknowledge that, by entering into this CAFO, they are settling disputed claims. Nothing in this agreement shall be deemed as an admission of liability. This CAFO shall not be construed to create any rights in, or any cause of action in favor of, any third party not a party to this CAFO.

5. 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.

II. TERMS OF SETTLEMENT

6. Respondent hereby certifies that it is currently operating and will operate its business in compliance with Section 406(b) of TSCA, 15 U.S.C. § 2686(b), the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4851 *et seq.*, and the Renovation, Repair and Painting Rule set forth at 40 C.F.R. Part 745, Subpart E.

7. Pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, and taking into account the nature, circumstances, extent, and gravity of the violations, EPA has determined that an appropriate civil penalty to settle this action is in the amount of ten thousand eight hundred ninety dollars (\$10,890).

8. Respondent consents to the issuance of this CAFO and consents to the payment of a civil penalty of \$10,890, which shall be due within 30 calendar days of the effective date of this CAFO.

9. Respondent shall make payment by cashier's or certified check, or check issued in the normal course of business operations, payable to the order of the "Treasurer, United States of America," and referencing the EPA Docket Number of this action (TSCA-01-2013-0010), to the following address:

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 the check to:

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

and

Andrea Simpson
Senior Enforcement Counsel
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code OES04-2
Boston, MA 02109-3912

10. Pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, and 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 the civil penalty is not paid when due, the penalty shall be payable, plus accrued interest, without demand. Interest shall be payable at the rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b)(2) and shall accrue from the original date on which the penalty was due to the date of payment. In addition, a penalty charge of six (6) 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 of the first day payment is due under 31 C.F.R. § 901.9(d).

11. All payments made pursuant to this Section are penalties within the meaning of Section 162(f) of the Internal Revenue Code, 26 U.S.C. § 162(f), and Respondent shall not use these payments in any way as, or in furtherance of, a tax deduction under federal law.

12. Respondent shall bear its own costs and attorney's fees in connection with the action resolved by this CAFO.

13. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, for the violations alleged in the Complaint, contingent on Respondent's full compliance with the terms of this CAFO. Compliance with this CAFO shall not be a defense to any actions subsequently commenced pursuant to Federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with such laws and regulations.


14. This CAFO in no way relieves Respondent or its employees of any criminal liability. Nothing in the CAFO shall be construed to limit the authority of the United States to undertake any action against Respondent in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment. Nothing in this CAFO 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 Respondent's violation of the statutes and regulations upon which this agreement is based, or for Respondent's violation of applicable provision of law.

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

16. This CAFO does not constitute a waiver, suspension, or modification of the requirements of TSCA, 15 U.S.C. § 2601 *et seq.*, or any regulations promulgated thereunder.

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

For Respondent:



G. William Purdie, President
New Hampshire Plate Glass Corp..

1/13/14
Date

For Complainant:



Joanna Jerison
Legal Enforcement Manager
Office of Environmental Stewardship
U.S. Environmental Protection Agency
Region I


1/17/14
Date

III. FINAL ORDER

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

Date:

1/21/14



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