

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for William D. Chin 9/27/12
Name of Case Attorney Date

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

Case Docket Number CAA-01-2012-0088

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:

Nashua Corporation
59 Daniel Webster Highway
Memmick, NH 03054

Total Dollar Amount of Receivable \$ 20,200 Due Date: 10/26/12

SEP due? Yes No Date Due 10/26/13

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

RECEIVED

SEP 26 2012

EPA ORC *WS*
Office of Regional Hearing Clerk

September 26, 2012

Via Hand Delivery

Wanda I. Santiago
Regional Hearing Clerk
U.S. EPA, Region 1
5 Post Office Square - Suite 100
Mail Code: ORA18-1
Boston, MA 02109-3912

RE: *In the Matter of: Nashua Corporation*
Docket No. CAA-01-2012-0088

Dear Ms. Santiago:

I enclose for filing in the above-referenced matter the original and one copy of the Consent Agreement and Final Order and a Certificate of Service.

Thank you for your assistance.

Sincerely,

William D. Chin
Enforcement Counsel

Enclosures

cc: Steve N. Siegel, Esq.

In the Matter of: Nashua Corporation
Docket No. CAA-01-2012-0088

CERTIFICATE OF SERVICE

I hereby certify that I caused the foregoing Consent Agreement and Final Order to be sent to the following person(s), in the manner stated, on the date below:

Original and one copy,
By Hand Delivery:


Wanda I. Santiago
Regional Hearing Clerk
U.S. EPA, Region 1
5 Post Office Square - Suite 100
Mail Code: ORA18-1
Boston, MA 02109-3912

One copy, By Certified Mail,
Return Receipt Requested:

Steve N. Siegel, Esq.
Dinsmore & Shohl, LLP
255 East Fifth Street – Suite 1900
Cincinnati, OH 45202

Dated: _____

9/26/12



William D. Chin
Enforcement Counsel
U.S. EPA, Region 1
5 Post Office Square
Suite 100 (OES04-4)
Boston, MA 02109-3912

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

RECEIVED
SEP 26 2012
EPA ORC
Office of Regional Hearing Clerk

In the Matter of:)
)
Nashua Corporation) **Docket No.**
59 Daniel Webster Highway) **CAA-01-2012-0088**
Merrimack, NH 03054)
) **CONSENT AGREEMENT**
Respondent.) **AND FINAL ORDER**
)
Proceeding under Section 113(d))
of the Clean Air Act, 42 U.S.C. § 7413(d))

CONSENT AGREEMENT

Introduction

1. Complainant, the United States Environmental Protection Agency (“EPA”), Region 1 alleges that Respondent, Nashua Corporation (“Nashua”), has violated Section 112 of the Clean Air Act (“CAA” or the “Act”), 42 U.S.C. § 7412, and EPA’s regulations promulgated to implement this statutory provision at 40 C.F.R. Part 63, Subpart FFFF.

2. Complainant and Respondent agree 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. Pursuant to 40 C.F.R. § 22.13(b) of EPA's “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits; Final Rule,” 40 C.F.R. Part 22, Complainant and Respondent agree to simultaneously commence and settle this action by the issuance of this CAFO.

3. Therefore, before any hearing, without adjudication of any issue of fact or law, upon the record, and upon consent and agreement of Complainant and Respondent, it is hereby ordered and adjudged as follows:

Statutory and Regulatory Authority

4. Section 112 of the CAA, 42 U.S.C. § 7412, lists various hazardous air pollutants and requires EPA to establish national emissions standards for these pollutants.

5. Pursuant to Section 112 of the CAA, EPA promulgated the “National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing” (“MON NESHAP”) which became effective on November 10, 2003. The MON NESHAP is set forth at 40 C.F.R. Part 63, Subpart FFFF and is designed to minimize emissions of hazardous air pollutants into the atmosphere.

6. Section 113(d) of the CAA, 42 U.S.C. § 7413(d), authorizes EPA to issue an administrative penalty order to enforce the requirements or prohibitions contained in Section 112 and any regulations promulgated thereunder.

7. Section 113(d) of the CAA provides that EPA may assess a civil penalty of up to \$25,000 per day of a CAA violation. Pursuant to the Debt Collection Improvement Act of 1996 (“DCIA”), 31 U.S.C. § 3701 et seq., as well as 40 C.F.R. Part 19, the maximum civil penalty that may be assessed for a CAA violation has been increased to \$37,500 per day for each violation that occurred on or after January 13, 2009.

8. Section 113(d) of the CAA limits EPA's authority to issue administrative penalty orders to matters where the total penalty sought does not exceed \$200,000 and the first date of violation occurred no more than 12 months prior to the initiation of the action, unless the EPA and the U.S. Department of Justice (“DOJ”) jointly determine that a matter involving a larger

penalty amount or longer period of violation is appropriate for an administrative penalty action. Pursuant to the DCIA and its implementing regulations, the above-described penalty cap has been raised to \$295,000. Although this CAFO alleges violations that commenced more than 12 months ago, EPA and DOJ have jointly determined that this matter is appropriate for an administrative penalty action.

Findings of Fact/Determinations of Law

Complainant alleges the following findings of fact and determinations of law which Respondent neither admits nor denies:

9. Respondent is a corporation incorporated under the laws of the Commonwealth of Massachusetts and is a subsidiary of Cenvo Corporation

10. Respondent operates a facility located at 59 Daniel Webster Highway in Merrimack, New Hampshire (the "Facility") and employs approximately 80 employees at the Facility. Respondent sells coated papers for a wide variety of printing technologies, including direct thermal, thermal transfer, ink jet, engineering laser, and impact printing. Respondent operates three coaters at the Facility that apply water-base coatings and one coater that applies both water-based and solvent-based coatings. Respondent owns and operates all of the manufacturing and processing equipment at the Facility.

11. At the Facility, Respondent manufactures a styrene acrylic toner resin (the "SAT Resin") that is sold for use. Respondent also manufactures a binder (the "Binder") that is used as an adhesive in its solvent-based paper coating operation. Respondent formerly manufactured a dicyclohexyl phthalate ("DCHP") adhesive (the "DCHP Adhesive") that was used in its paper coating operation. Respondent discontinued manufacturing the DCHP Adhesive sometime in 2009.

12. Respondent began manufacturing the SAT Resin in 1978, the Binder in 1977, and the DCHP Adhesive in 1980.

13. Respondent owns five reactors at the Facility (the “Reactors”) and currently operates four of them. The SAT Resin is manufactured in Reactors 1, 3 and 5. The Binder is manufactured in Reactor 2. The DCHP Adhesive was formerly manufactured in Reactor 4.

14. The materials that are or were produced in Reactors 1 through 5 (i.e., the SAT Resin, the Binder, and the DCHP Adhesive) are or were all organic chemicals or chemicals as described in 40 C.F.R. § 63.2435(b)(1). Therefore, the production of each of these organic chemicals or chemicals is or was a “miscellaneous organic chemical manufacturing process” (“MCP”), as defined in 40 C.F.R. § 63.2550, and thus, Reactors 1 through 5 are “miscellaneous organic chemical manufacturing process units” (“MCPUs”), as described in 40 C.F.R. § 63.2435.

15. Pursuant to 40 C.F.R. § 63.2435(b), an MCPU includes equipment necessary to operate the MCP as well as any associated equipment, such as storage tanks, pumps, and compressors.

16. Pursuant to 40 C.F.R. § 63.2435(a), owners or operators of MCPUs that are located at, or are a part of, a major source of hazardous air pollutants (“HAPs”) emissions as listed in Section 112(b) of the CAA, 42 U.S.C. § 7412(b), are subject to the MON NESHAP.

17. Pursuant to Sections 112(a)(1) and 501 of the CAA, 42 U.S.C. §§ 7412(a)(1) and 7661, and 40 C.F.R. § 63.2, a “major source” includes any stationary source that has the potential to emit more than 10 tons per year of any single HAP or more than 25 tons per year of a combination of HAPs.

18. The Facility is a “major source, as defined in Sections 112(a)(1) and 501 of the CAA and 40 C.F.R. § 63.2, primarily due to the emissions of toluene which is a HAP as listed in Section 112(b)(1) of the CAA, 42 U.S.C. § 7412(b)(1).

19. As the owner and/or operator of MCPUs that are located at a major source of HAP emissions, Respondent is subject to the requirements of the MON NESHAP.

20. Pursuant to 40 C.F.R. §§ 63.2 and 63.2440, an “existing affected source” is an affected source for which construction or reconstruction commenced on or before April 4, 2002.

21. Respondent commenced all of its miscellaneous organic chemical manufacturing operations at the Facility prior to April 4, 2002, and thus, the Facility is an “existing affected source” under the MON NESHAP.

22. On or about May 26, 2010, Complainant conducted a CAA compliance inspection of the Facility (“Inspection”).

23. On or about July 20, 2010, Complainant issued a CAA information request to Respondent (“IR”).

24. On or about August 30, 2010, Respondent submitted its written responses to the IR (“Responses to IR”).

25. On or about January 6, 2011, Complainant issued a CAA Administrative Order to Respondent (“AO”), which notified Respondent that Complainant had determined that Respondent was in violation of certain requirements of the MON NESHAP, and ordered Respondent to come into compliance with the MON NESHAP within 12 months from the date of the AO.

26. On or about September 1, 2011, Respondent submitted an initial notification for the Facility under the MON NESHAP.

27. On or about September 16, 2011, Respondent submitted a precompliance report for the Facility under the MON NESHAP.

28. On or about December 5, 2011, Respondent submitted a notification of compliance status report for the Facility under the MON NESHAP.

29. On or about July 27, 2012, Respondent submitted its Title V semi-annual compliance report to EPA, which included for the first time a description of the facility's compliance with the MON NESHAP. Based on the Inspection, Respondent's Responses to the IR, and other information provided by Respondent and/or other sources after the Inspection, Complainant identified the following violations:

Failure to submit a precompliance report

30. Pursuant to 40 C.F.R. § 63.2520(c) and Table 11 of the MON NESHAP, an owner or operator of an existing affected source must submit a precompliance report by no later than six months prior to the compliance date of the MON NESHAP.

31. Pursuant to 40 C.F.R. § 63.2445(b), an owner or operator of an existing affected source must comply with the requirements of the MON NESHAP by no later than May 10, 2008.

32. Thus, the owner or operator of an existing affected source must submit a precompliance report by no later than November 10, 2007.

33. As described above in Paragraph 27, Respondent submitted a precompliance report for the Facility under the MON NESHAP on or about September 16, 2011.

34. Accordingly, Respondent's failure to submit a precompliance report for the Facility under the MON NESHAP by November 10, 2007 constitutes a violation of 40 C.F.R. § 63.2520(c) and Section 112 of the CAA.

Failure to submit a notification of compliance status report

35. Pursuant to 40 C.F.R. § 63.2520(d) and Table 11 of the MON NESHAP, the owner or operator of an existing affected source must submit a notification of compliance status report by no later than October 7, 2008 (i.e., no later than 150 days after May 10, 2008).

36. As described above in Paragraph 28, Respondent submitted a notification of compliance status report for the Facility under the MON NESHAP on or about December 5, 2011.

37. Accordingly, Respondent's failure to submit a notification of compliance status report for the Facility under the MON NESHAP by October 7, 2008 constitutes a violation of 40 C.F.R. § 63.2550(d) and Section 112 of the CAA.

Failure to submit semiannual compliance status reports

38. Pursuant to 40 C.F.R. § 63.2520(b) and Table 11 of the MON HESHAP, the owner or operator of an existing affected source must submit compliance reports covering the reporting period from January 1 through June 30 and the reporting period from July 1 through December 31. The compliance report must be submitted by no later than August 31 or February 28, whichever is the first date following the end of the semiannual reporting period.

39. As described above in Paragraph 31, Respondent's compliance date for the MON NESHAP was May 10, 2008. Thus, pursuant to 40 C.F.R. § 63.2520(b), Respondent's first compliance report for the Facility should have covered the period from May 10, 2008 through December 31, 2008, and was due by no later than February 28, 2009. Subsequent compliance reports for the Facility were to be submitted by Respondent by no later than August 31 and February 28 of each subsequent year.

40. As described above in paragraph 29, Respondent submitted its Title V semiannual compliance report, which for the first time included a description of the facility's compliance with the MON NESHAP on or about July 27, 2012.

41. Accordingly, Respondent's failure to submit semiannual compliance reports for the Facility under the MON NESHAP from February 28, 2009 to July 27, 2012 constitutes violations of 40 C.F.R. § 63.2520(b) and Section 112 of the CAA.

Failure to comply with requirements for equipment leaks

42. Pursuant to 40 C.F.R. § 63.2480, the owner or operator of an existing affected source must comply with each requirement in Table 6 of the MON NESHAP that applies to equipment leaks (i.e., leak detection and repair or "LDAR" program requirements).

43. Pursuant to Table 6 of the MON NESHAP, owners or operators of equipment that is in organic HAP service must meet LDAR program requirements by complying with either 40 C.F.R. Part 63, Subpart UU; 40 C.F.R. Part 63, Subpart H; or 40 C.F.R. Part 65, Subpart F.

44. The MCPUs at the Facility are equipment "in organic HAP service," as defined at 40 C.F.R. § 63.2550.

45. As described above in Paragraph 31, Respondent's compliance date for the MON NESHAP was May 10, 2008. Thus, Respondent was required to meet LDAR program requirements for the MCPUs at the Facility by no later than May 10, 2008.

46. Respondent did not implement LDAR program requirements for the MCPUs at the Facility by May 10, 2008.

47. At the time of the Inspection (May 26, 2010), Respondent still had not implemented LDAR program requirements for the MCPUs at the Facility.

48. On or about October 20, 2011, Respondent submitted an LDAR Initial Compliance Status Report that stated that Respondent had elected to meet LDAR program requirements for the MCPUs at the Facility by complying with the requirements of 40 C.F.R. Part 63, Subpart UU.

49. Accordingly, Respondent's failure to implement LDAR program requirements for the MCPUs at the Facility from May 10, 2008 until October 20, 2011 constitutes violations of 40 C.F.R. § 63.2480 and Section 112 of the CAA.

TERMS OF SETTLEMENT

50. The provisions of this CAFO shall apply to and be binding on Respondent, its officers and directors (in their corporate capacities only), successors and assigns.

51. Respondent agrees that EPA has jurisdiction over the subject matter alleged in this CAFO. For purposes of this CAFO, including any further action to enforce the terms of this CAFO, Respondent waives any defenses it might have as to jurisdiction and venue.

52. Respondent acknowledges that it has been informed of its right to request a hearing in this proceeding, and hereby waives its right to a judicial or administrative hearing or appeal on any issue of law or fact set forth in this CAFO.

53. Respondent hereby waives its right to appeal the Final Order accompanying this Consent Agreement.

54. Without admitting or denying the specific factual allegations contained in this CAFO, Respondent consents to the terms and issuance of this CAFO, including the performance of the Supplemental Environmental Project ("SEP") described herein, and consents for the purposes of settlement to the payment of the civil penalty as set forth in this CAFO.

55. Taking into account the particular facts and circumstances of this matter, with specific reference to the penalty factors set forth in Section 113(e)(1) of the CAA, 42 U.S.C. § 7413(e)(1), as well as Respondent's agreement to perform the SEP described herein, Complainant has determined that it is fair and proper that Respondent pay a civil penalty in the amount of \$20,200 in settlement of this matter.

56. Respondent shall pay the civil penalty set forth in this CAFO by no later than thirty (30) calendar days after the effective date of this CAFO.

57. This CAFO shall be effective on the date it is filed with the Regional Hearing Clerk.

58. Respondent shall make the civil penalty payment by submitting a bank, cashier's or certified check, payable to the order of the "Treasurer, United States of America," to:

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

Respondent shall note the name ("In the Matter of: Nashua Corporation") and docket number ("CAA-01-2012-0088") of this matter on the payment check and in an accompanying cover letter, and shall provide copies of the check and the cover letter to:

Wanda I. Santiago
Regional Hearing Clerk
U.S. EPA, Region 1
5 Post Office Square - Suite 100
Mail Code: ORA18-1
Boston, MA 02109-3912

and

William D. Chin
Enforcement Counsel
U.S. EPA, Region 1
5 Post Office Square - Suite 100
Mail Code: OES04-4
Boston, MA 02109-3912

59. Failure by Respondent to pay in full the civil penalty amount set forth in this CAFO shall subject Respondent to a civil action to collect the assessed penalty, plus interest at currently prevailing rates from the date of issuance of the Final Order. The rate of interest assessed shall be at the rate established in accordance with 26 U.S.C. § 6621(a)(2). In any such collection action, the validity, amount and appropriateness of the penalty and of this CAFO shall not be subject to review. Pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), any person who fails to pay on a timely basis the amount of an assessed penalty plus any agreed upon interest shall be required to pay, in addition to such penalty and interest, the United States' enforcement expenses, including attorney's fees, costs for collection proceedings, and an additional quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to ten percent of the aggregate amount of such person's penalties and nonpayment penalties which are unpaid at the beginning of each quarter.

Description of SEP

60. Respondent agrees to complete the following SEP, which the parties agree is intended to secure significant environmental protection and improvements.

61. To improve air quality, Respondent shall implement a SEP Wood Stove Change-out Project, in accordance with the provisions of this CAFO. Respondent shall implement a wood stove change-out program by providing information and financial incentives to homeowners through an air pollution control agency(ies) and/or non-profit(s) for the replacement of older hydronic or outdoor wood boilers, pre-1988 wood stoves, or their components, with EPA Phase II hydronic heaters, EPA-certified wood stoves, or their components, in the Merrimack, New

Hampshire area. The SEP is further described in Attachment #1 of this CAFO and incorporated herein by reference.

62. Respondent agrees to complete the SEP within twelve (12) months after the effective date of this CAFO and to spend at least \$80,800 for the SEP, except that Respondent may request an extension of time to complete the SEP if it appears likely that the full amount of funds that Respondent must spend on the SEP will not be disbursed towards the wood stove change-out SEP within such 12 month period despite Respondent's best efforts (as described in the SEP reports, submitted pursuant to Paragraphs 64-65 herein). Respondent shall include documentation of the expenditures made in connection with the SEP as part of a SEP Completion Report, described in Paragraph 64 herein.

a. Respondent agrees to be responsible for the satisfactory completion of the SEP in accordance with the requirements of this CAFO. Respondent further agrees that the failure to satisfactorily complete the SEP required by this CAFO, shall be deemed a violation of this CAFO, and that Respondent shall become liable for stipulated penalties pursuant to Paragraph 71 herein.

b. Any public statement, oral or written, in print, film, or other media, made by Respondent making reference to the SEP shall contain the following language, "This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental Protection Agency for violations of Section 112 of the Clean Air Act, 42 U.S.C. § 7412, and the federal and state regulations promulgated to implement this statutory provision."

c. 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 ruling on, or a determination of, any issue related to any federal, state or local permit, nor shall it be construed

to constitute EPA approval of any equipment or technology provided through the SEP under the terms of this Agreement.

d. For federal income tax purposes, Respondent agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP.

63. Respondent certifies that, as of the date of its execution of this CAFO, Respondent is not required to perform or develop the SEP by any federal, state or local law or regulation; nor is Respondent required to perform or develop the SEP by any other agreement or grant or as injunctive relief in this or any other action. Respondent also certifies that it has not received, and is not presently negotiating to receive, credit in any other enforcement action for the SEP.

SEP Reports

64. Within 30 days of the completion of the SEP, Respondent shall submit a SEP Completion Report to Complainant that shall contain the following information:

- a. A detailed description of the SEP as implemented;
- b. A description of any problems encountered in completing the SEP and the solutions thereto;
- c. A list of all eligible SEP Project Dollars expended;
- d. Certification that the SEP has been fully implemented pursuant to the provisions of this CAFO; and that for federal income tax purposes, Respondent will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP; and
- e. A brief description of the environmental and public health benefits resulting from implementation of the SEP.

65. Respondent shall also submit SEP Periodic Reports to Complainant describing the progress of the SEP. The SEP Periodic Reports shall be due every six months, beginning 180

days after the effective date of this CAFO. Each SEP Periodic Report shall contain a brief description of: (a) the work undertaken for the SEP during the six months preceding the due date of the report; (b) the work planned for the SEP during the six months following the due date of the report; and (c) any actual or anticipated problems or delays in the implementation of the SEP. Respondent shall not be required to submit any SEP Periodic Report subsequent to the completion date of the SEP.

66. Respondent agrees that failure to submit any of the SEP Reports required by this CAFO shall be deemed a violation of this CAFO, and that Respondent shall become liable for stipulated penalties pursuant to Paragraph 71 herein.

67. Respondent shall submit, by first class mail or overnight delivery, the SEP Reports required by this CAFO to: Christine Sansevero, Air Technical Unit, U.S. EPA, Region 1, 5 Post Office Square - Suite 100, Mail Code: OES04-2, Boston, MA 02109-3912. The date of submission of each required SEP Report shall be deemed the date on which such information is postmarked by the U.S. Postal Service, or delivered to an overnight delivery carrier.

68. Respondent shall maintain legible copies of documentation of the relevant and pertinent supporting evidence for any and all SEP Reports submitted to Complainant pursuant to this CAFO for five (5) years following such submission, and Respondent shall provide documentation to Complainant within seven (7) days of a request for such information. In all documents or reports submitted to EPA Region 1 pursuant to this CAFO, Respondent shall, by and through an authorized official, sign and certify under penalty of law that the information contained in such document or report is true, accurate, and not misleading by signing the following statement:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those

individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

Response to SEP Reports

69. Following receipt of any SEP Report required by this CAFO, Complainant will do one of the following: (i) accept the SEP Report; or (ii) reject the SEP Report, notify Respondent in writing of the deficiencies in the SEP Report and grant Respondent an additional thirty (30) days in which to correct any deficiencies.

70. If Complainant elects to exercise option (ii) above, Complainant shall permit Respondent the opportunity to object in writing to the notification of deficiency or disapproval given pursuant to this paragraph within ten (10) days of receipt of such notification. Complainant and Respondent shall have an additional thirty (30) days from the receipt by Complainant of the notification of objection to reach an agreement on the issues in dispute. If agreement cannot be reached on any such issue within this thirty (30) day period, Complainant shall provide a written statement of its decision to Respondent, which decision shall be final and binding upon Respondent. Respondent agrees to comply with any requirements imposed by Complainant as a result of any such deficiency or failure to comply with the terms of this CAFO. In the event the SEP is not completed as contemplated herein, stipulated penalties shall be due and payable by Respondent to the United States in accordance with Paragraph 71 below.

Stipulated Penalties

71. In the event that Respondent fails to comply with any of the terms or provisions of this CAFO relating to the performance of the SEP, including, but not limited to the filing of any SEP Report, and/or to the extent that the actual expenditures for the SEP do not equal or exceed

the expected cost of the SEP, Respondent shall be liable for stipulated penalties in accordance with the provisions set forth below:

a. Except as provided by Subparagraph 71b herein, if the SEP is not satisfactorily completed pursuant to the terms of this CAFO, Respondent shall pay a stipulated penalty to the United States in the amount of \$101,000 plus interest accrued from the effective date of this CAFO;

b. If the SEP is not satisfactorily completed, but Respondent: (1) made good faith and timely efforts to complete the SEP; and (2) certifies, with supporting documentation, that it spent at least 90 percent of the amount of money originally required to be spent on the SEP, Respondent shall not be liable for any stipulated penalty;

c. If the SEP is satisfactorily completed, but Respondent spent less than 90 percent of the amount of money originally required to be spent for the SEP, Respondent shall pay a stipulated penalty to the United States in the amount of \$8,080 plus interest accrued from the effective date of this CAFO; and

d. For the failure to submit any SEP Report required by this CAFO, Respondent shall pay a stipulated penalty to the United States of \$200 per day until the report is submitted.

72. The determinations of whether the SEP or any SEP Report has been satisfactorily and/or timely completed or submitted and whether Respondent has made a good faith, timely effort to implement the SEP shall be in the sole discretion of Complainant.

73. Respondent shall pay stipulated penalties plus any interest thereon within fifteen (15) days of receipt of written demand by Complainant for such penalties. The method of payment shall be in accordance with the provisions of Paragraph 58 herein. Complainant may, in its sole

discretion, elect not to seek stipulated penalties or to compromise any portion of stipulated penalties that accrue pursuant to this CAFO.

Additional Provisions

74. The civil penalty set forth in this CAFO, and any interest, non- payment penalties, and/or other charges assessed in this matter, shall represent penalties assessed by EPA and shall not be deductible for purposes of federal taxes.

75. 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.

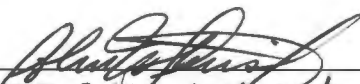
76. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 113 of the CAA for the specific violations alleged in this CAFO and in the CAA Administrative Order issued to Respondent by Complainant on January 6, 2011. Nothing in this CAFO is intended to nor shall be construed to operate in any way to resolve any criminal or any other civil liability of Respondent. Compliance with this CAFO shall not be a defense to any actions unrelated to the violations alleged herein and 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. Nothing in this Consent Agreement shall be construed as limiting the authority of the United States to undertake any action against Respondent in response to conditions which may present an imminent and substantial endangerment to the public health, welfare or the environment.

77. Except as described in Paragraph 59, each party shall bear its own costs and fees in this proceeding, and specifically waive any right to cover such costs from the other party pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504, or other applicable laws.

78. Each undersigned representative of a party to this CAFO certifies that she or he is fully authorized to enter into the terms and conditions of this CAFO and to execute and legally bind such party to it.


THE UNDERSIGNED PARTIES enter into this CAFO for: In the Matter of: Nashua Corporation, Docket No. CAA-01-2012-0088.

For Nashua Corporation:


Name: Colin W. Christ
Title: President - Merrimack
Company: Nashua Corp.

9-20-12
Date

For U.S. EPA, Region 1:


Susan Studlien
Director
Office of Environmental Stewardship
U.S. EPA, Region 1

09/25/12
Date

FINAL ORDER

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

fn *LeAnn Jensen*
LeAnn Jensen
Acting Regional Judicial Officer
U.S. EPA, Region 1

September 25, 2012
Date

ATTACHMENT #1 to CAFO
In the Matter of: Nashua Corporation
Docket No. CAA-01-2012-0088

Supplemental Environmental Project - Wood Stove Change-out Project

1. Within sixty (60) days from the effective date of the CAFO, Respondent shall submit to EPA Region 1 for review and approval a plan to implement a wood stove change-out program in an area that would benefit from reductions of fine particle pollution, VOCs, and/or hazardous air pollutants (“the Plan”). The reductions in pollutants may be obtained by: 1) replacing older hydronic or outdoor wood boilers with EPA Phase II hydronic heaters, or retrofitting such older hydronic or outdoor wood boilers to meet EPA Phase II hydronic heater standards; 2) replacing pre-1988 wood stoves with EPA-certified wood-stoves and/or cleaner burning, more energy-efficient hearth appliances (e.g., wood pellet, gas, or propane stoves), or 3) replacing spent catalysts in EPA-certified wood stoves (the “Wood Stove Change-out Project”), to the extent allowed in the approved Plan. Respondent shall spend no less than \$80,800 performing the SEP, and shall complete the SEP by no later than 12 months after the effective date of the CAFO, except that Respondent may request an extension of time to complete the SEP if it appears likely that the full amount of funds that Respondent must spend on the SEP will not be disbursed within such 12 month period, despite Respondent’s best efforts to implement the SEP in accordance with this Attachment #1.

2. The SEP that Respondent implements shall provide information (including, educational efforts and outreach regarding clean-burning alternatives to older hydronic or outdoor wood boilers and pre-1988 wood stoves and proper operation of the hearth appliances) and incentives through rebates, vouchers, discounts, and, in some instances, actual replacement

of older hydronic or outdoor wood boilers and pre-1988 wood stoves for income-qualified residential homeowners, as set forth in the approved Plan.

3. Respondent shall implement the SEP in Hillsborough, Rockingham and Merrimack Counties in New Hampshire. In determining the specific areas to implement the SEP within the aforementioned geographic areas, Respondent shall give priority to areas with high amounts of air pollution, especially particle pollution and/or hazardous air pollutants, areas located within a geography and topography that makes them susceptible to high levels of particle pollution, areas that have a significant number of older hydronic or outdoor wood boilers and pre-1988 wood-burning appliances, and densely populated areas.

4. Respondent shall implement the SEP consistent with the materials available on EPA's website at: <http://www.epa.gov/burnwise>. Respondent may use contractors or consultants in implementing the SEP.

5. The Plan shall also satisfy the following criteria:

- a. Identify the contractor or consultant that will assist Respondent in implementing the SEP.
- b. Describe the schedule and budget to implement the SEP.
- c. Respondent shall describe the SEP reports by which Respondents shall describe actions to be taken and actions completed in implementing the SEP, including, but not limited to, the number of applications received/accepted, the number of Phase II hydronic heaters or EPA-certified stoves installed or repaired, the number of old hydronic or outdoor wood boilers or stoves removed, the method and location of disposal/recycling, and the costs expended as of the date of the report.

d. Respondent shall limit the use of funds for the SEP towards administrative costs associated with implementation of the program to no greater than 15% of the SEP funds.

e. Describe all of the elements of the SEP, including the type and amount of the incentive that will be made available to residential homeowners. The Plan may provide for issuance of vouchers to residential homeowners in amounts ranging from \$3,000 - \$4,000 for each Phase II hydronic heater or \$1,000 - \$1,500 for each replacement wood stove. Respondent may fund the actual replacement of older hydronic or outdoor wood boilers and pre-1988 wood stoves for income-qualified residential homeowners, provided that Respondent shall describe the number of energy efficient hearth appliances it intends to make available, the cost per unit, and the criteria it proposes to use to determine which residential homeowners should be eligible for actual stove replacement.

f. If applicable, identify any organizations with which Respondent will partner to implement the SEP, including such organizations as: the Hearth, Patio, and Barbecue Association of America, the Chimney Safety Institute of America, a local chapter of the American Lung Association, individual stove retailers, propane dealers, facilities that will dispose of older hydronic or outdoor wood boilers and old stoves so that they cannot be resold or reused, housing assistance agencies, local fire departments, local health organizations, and local green energy organizations.

g. Describe how Respondent will ensure that the older hydronic or outdoor wood boilers and pre-1988 wood stoves will be properly recycled or disposed.

h. Describe the outreach to be conducted to publicize the SEP in Hillsborough, Rockingham, and Merrimack counties in New Hampshire, and particularly in densely populated areas, such as Merrimack, Manchester, Concord, Nashua, and Portsmouth.

6. Upon EPA Region 1's approval of the Plan, Respondent shall initiate and undertake the SEP according to the approved Plan and schedule. Within 180 days of the effective date of the CAFO, Respondent shall have completed funding an escrow arrangement with the full amount of the anticipated SEP expenditure of \$80,800 with its counsel, Steve N. Siegel, to be held in a separate account. Respondent shall authorize disbursements pursuant to the escrow arrangement in accordance with the provisions of the Plan.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1
5 POST OFFICE SQUARE, SUITE 100
BOSTON, MA 02109-3912

September 26, 2012

Via Hand Delivery

Wanda I. Santiago
Regional Hearing Clerk
U.S. EPA, Region 1
5 Post Office Square - Suite 100
Mail Code: ORA18-1
Boston, MA 02109-3912

RE: *In the Matter of: Nashua Corporation*
Docket No. CAA-01-2012-0088

Dear Ms. Santiago:

I enclose for filing in the above-referenced matter the original and one copy of the Consent Agreement and Final Order and a Certificate of Service.

Thank you for your assistance.

Sincerely,

A handwritten signature in blue ink that reads "William D. Chin".

William D. Chin
Enforcement Counsel

Enclosures

cc: Steve N. Siegel, Esq.

In the Matter of: Nashua Corporation

Docket No. CAA-01-2012-0088

CERTIFICATE OF SERVICE

I hereby certify that I caused the foregoing Consent Agreement and Final Order to be sent to the following person(s), in the manner stated, on the date below:

Original and one copy,
By Hand Delivery:

Wanda I. Santiago
Regional Hearing Clerk
U.S. EPA, Region 1
5 Post Office Square - Suite 100
Mail Code: ORA18-1
Boston, MA 02109-3912

One copy, By Certified Mail,
Return Receipt Requested:

Steve N. Siegel, Esq.
Dinsmore & Shohl, LLP
255 East Fifth Street – Suite 1900
Cincinnati, OH 45202

Dated: _____

9/26/12



William D. Chin
Enforcement Counsel
U.S. EPA, Region 1
5 Post Office Square
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