

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Cynthia Catvi 2/25/20
Name of Case Attorney Date

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

Case Docket Number TSCA-01-2020-0025, TSCA-01-2020-0026, TSCA-01-2020-0027

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:

NSTAR Electric Company dba Eversource
Energy and The Connecticut Light and Power Co.
800 Bayston Street, 17th Floor
Boston, MA 02199

Total Dollar Amount of Receivable \$ 129,428 Due Date: 3/26/20

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

RECEIVED

FEB 24 2020

EPA ORC WS
Office of Regional Hearing Clerk

BY HAND

FEB 24 2020

Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency - Region I
5 Post Office Square, Suite 100
Mail Code : 04-6
Boston, MA 02109-3912

Re: In the Matter of: NSTAR Electric Company dba Eversource Energy and The Connecticut Light and Power Company dba Eversource Energy
Docket Nos. TSCA 01-2020-0025, TSCA-01-2020-0026, TSCA-01-2020-0027

Dear Ms. Santiago,

Enclosed for filing, please find a Consent Agreement and Final Order (CAFO) settling the matters referenced above.

Thank you for your attention to this matter.

Sincerely,

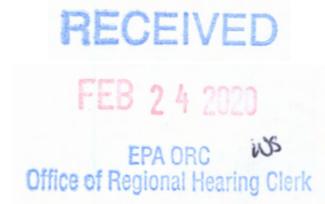
A handwritten signature in blue ink that reads "Cynthia Catri".

Cynthia Catri
Senior Enforcement Counsel
EPA Region 1

Enclosure

cc: Nancy Kaplan, Senior Counsel, Eversource Energy
Charles Nicol, Senior Counsel, Eversource Energy
Marianne Milette, Region 1 PCB Enforcement Coordinator

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1**



In the Matter of:)	
)	
NSTAR Electric Company)	
dba Eversource Energy)	
800 Bolyston Street, 17 th Floor)	Docket Nos.
Boston, MA 02199)	
Re: 14 Park St., Lee, MA)	TSCA-01-2020-0025
)	
The Connecticut Light and Power)	
Company dba Eversource Energy)	
107 Selden Street)	
Berlin, CT 06037)	
Re: 69 Marlborough Street)	TSCA-01-2020-0026
Portland, CT)	
)	
Re: 15 Pleasant Lane)	TSCA-01-2020-0027
Bridgewater, CT)	
)	
Respondents)	CONSENT AGREEMENT AND
)	FINAL ORDER
)	
Proceeding under Section 16(a))	
of the Toxic Substances Control)	
Act, 15 U.S.C. § 2615(a).)	

CONSENT AGREEMENT

I. Introduction

1. Complainant, the United States Environmental Protection Agency (“EPA”), Region 1, alleges that Respondents, NSTAR Electric Company dba Eversource Energy (“Eversource MA”) and The Connecticut Light and Power Company dba Eversource Energy (“Eversource CT”) (collectively “Eversource” or “the “Respondents”) have failed to comply with Section 6 of the

Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2614, and EPA's regulations promulgated under this statutory provision at 40 C.F.R. Part 761.

2. Complainant and Respondents agree to simultaneously commence and settle this action by the issuance of this Consent Agreement and Final Order ("CAFO") as provided under 40 C.F.R § 22.13(b) of EPA's "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits" ("Consolidated Rules of Practice"). Respondents consent to the terms and issuance of this CAFO without adjudication of any issues of law or fact herein, and Respondents agree to comply with the terms of this CAFO.

II. Statutory and Regulatory Authority

3. Complainant takes this action under the authority of Section 16(a) of TSCA, 15 U.S.C. § 2615(a), for alleged violations of Section 15 of TSCA and 40 C.F.R. Part 761.

4. Section 15(1) of TSCA, 15 U.S.C. § 2614(1), makes it unlawful for any person to fail to comply with any rule promulgated under Section 6 of TSCA, 15 U.S.C. § 2605. Section 15(3) of TSCA, 15 U.S.C. § 2614(3), makes it unlawful for any person to fail to establish or maintain records, or to fail to submit reports, notices, or other information required by this chapter or a rule thereunder.

5. The Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions" (the "PCB Regulations"), 40 C.F.R. Part 761, were promulgated pursuant to Section 6(e) of TSCA, 15 U.S.C. 2605(e).

6. The PCB Regulations establish “prohibitions of, and requirements for, the manufacture, processing, distribution in commerce, use, disposal, storage, and marking of PCBs and PCB Items.” See 40 C.F.R. § 761.1(a).

7. Forty C.F.R. § 761.50 and § 761.60 set forth the requirements for the disposal of PCBs.

8. Forty C.F.R. § 761.65 sets forth the requirements for the storage for disposal of PCBs and PCB Items at concentrations of 50 parts per million (“ppm”) or greater.

9. Forty C.F.R. Subpart G -PCB Spill Cleanup Policy § 761.125(b) sets out requirements for cleanup of low-concentration spills which involve less than 1 pound of PCBs by weight (less than 270 gallons of untested mineral oil).

10. Forty C.F.R. § 761.180(a) sets forth recordkeeping and reporting requirements that apply to PCBs and PCB Items.

11. Forty C.F.R. § 761.202(b) and §761.205 set forth requirements for PCB waste disposal records and reports, including the requirement for generators of PCB waste to notify EPA of PCB waste activity (such as storage, disposal, or transport) and to have an EPA identification number.

12. Forty C.F.R. § 761.207 sets forth the general requirements for manifesting PCB waste.

III. Factual Allegations

13. Respondents are NSTAR Electric Company dba Eversource Energy and The

Connecticut Light and Power Company dba Eversource Energy. At all times relevant to this CAFO, each Respondent is a "person" as defined in 40 C.F.R. § 761.3 and is subject to certain prohibitions set forth in TSCA and the PCB Regulations.

A. Lee, Massachusetts Spill

14. On June 17, 2019, Clean Harbors Environmental Services, Inc., (“CHES”) notified the Connecticut Department of Energy and Environmental Protection (“CTDEEP”) and EPA of an “Instance of Non-compliance” at Clean Harbors of Connecticut, Inc.’s Broderick Road facility located at 51 Broderick Road, Bristol, Connecticut. (Letter dated June 17, 2019, to Robert Isner, Director, Waste Engineering and Enforcement Division, CTDEEP, from Donald A. Smith, Sr. Environmental Compliance Manager, CHES). Significant statements in the June 17, 2019, letter include the following:

- a. On April 13, 2019, CHES, through Clean Harbors Field Service, responded to an Eversource MA transformer spill cleanup in Lee, Massachusetts (hereinafter referred to as the “Lee spill”) (Note: This cleanup location is also referred to as 14 Park Street, Lee, MA in manifest No. 011905558 FLE, dated April 13, 2019, which is Attachment I to the June 17, 2019 letter). Oil from the leaking transformer at the spill location was tested for PCBs using a Dexsil Clor-N-Oil field testing kit by Clean Harbor Field Service personnel and by Tighe & Bond, the environmental consultant for Eversource MA. The oil passed both field screening tests. In addition to the field screening tests, Tighe & Bond collected a

sample of the transformer oil for laboratory analysis by Con-Test Analytical Laboratory (“Con-Test”). Based on the results of the field screening test, but prior to receiving the laboratory results, Clean Harbors Field Service began the cleanup.

- b. Approximately 3,558 pounds of soil impacted from Eversource MA’s transformer spill was excavated into the Clean Harbors Field Service truck at the Lee spill. The material from the Lee spill was shipped for disposal on Eversource Uniform Hazardous Waste Manifest No. 011905558 FLE, Non DOT Regulated Material, (Oily Solids 2-49 ppm PCB), dated April 13, 2019 (Attachment I to the June 17, 2019 letter).
- c. On April 16, 2019, CHFS returned to the Lee spill location and collected an additional 7,040 pounds of material from the Lee spill location. This waste was shipped to the CHCI facility for disposal on Eversource Uniform Hazardous Waste Manifest 011906345 FLE Non DOT Regulated Material, (Oily Solids 2-49 ppm PCB), dated April 16, 2019 (Attachment III to the June 17, 2019 letter). At the CHCI facility, a composite sample of the material was taken for analysis at the lab. The analytical data indicated elevated concentrations of PCBs.
- d. Concurrently, on April 16, 2019, CHCI was notified by Clean Harbors Field Service that the Con-Test laboratory analytical results for the transformer oil collected on April 13, 2019, at the Lee spill location, as described in subparagraph

- a. above, indicated PCBs were present at a concentration of 350 ppm in Eversource MA's transformer oil. (Attachment III to the June 17, 2019 letter.)
- e. CHCI rejected the material, corrected the manifest to indicate the material was PCB regulated material, and redirected it to Clean Harbors of Braintree, a TSCA permitted facility, for disposal.

15. Forty C.F.R. § 761.50(b)(3)(ii) states that spilled PCB waste, where the concentration of PCBs in the spill was over 50 ppm (“>50 ppm”), must be disposed of in accordance with either 40 C.F.R. § 761.61 or the PCB Spill Cleanup Policy, found at 40 C.F.R. Subpart G.

16. Pursuant to 40 C.F.R. Subpart G - PCB Spill Cleanup Policy § 761.125(a)(2), disposal of cleanup debris and materials (which includes PCB remediation waste) must be done in accordance with subpart D. The disposal of PCB remediation waste is regulated in subpart D under § 761.61. Under § 761.61, there are three cleanup options for PCB remediation waste, including the self-implementing disposal requirements of §761.61(a) for low impact releases, the performance-based disposal requirements of § 761.61(b), and the risk-based approval option of §761.61(c).

17. At all times relevant to this CAFO, Eversource MA did not seek to conduct the Lee spill cleanup described in paragraph 11 above pursuant to the requirements of 40 C.F.R. § 761.61(a) – Self-implementing regulations or 40 C.F.R. § 761.61(c) – Risk-based regulations.

18. A cleanup under the 40 C.F.R. Subpart G - PCB Spill Cleanup Policy or under 40

C.F.R. § 761.61(b) would require the PCB remediation waste to be manifested as PCB regulated waste \geq 50 ppm and disposed of at a TSCA PCB disposal facility. See 40 C.F.R. § 761.207(a).

Failure to Properly Manifest – April 13, 2019

19. At all times relevant to this CAFO, the soils impacted by the transformer oil containing PCB concentrations of 350 ppm at the Lee spill (“the Lee Soils”) met the definition of “PCB remediation waste” as defined at 40 C.F.R. § 761.3.

20. As identified in paragraph 18 above, the PCB remediation waste was required to be manifested as PCB regulated waste \geq 50 ppm.

21. Forty C.F.R. § 761.207 provides, in part, that a generator who relinquishes control over PCB wastes by transporting or offering to transport by his/her own vehicle or by the vehicle owned by another person, PCB waste for commercial off-site storage or disposal must prepare a manifest on EPA Form 8700-22 on which such generator specifies, for each bulk load of PCBs, the identify of such waste, the earliest date of removal from service for disposal, and the weight in kilograms of the PCB waste.

22. On April 13, 2019, Eversource MA shipped approximately 3,558 pounds of PCB waste containing PCB concentrations of 350 ppm from the Lee spill for disposal on Uniform Hazardous Waste Manifest No. 011905558 FLE as Non DOT Regulated Material, (Oily Solids 2-49 ppm PCB).

23. Accordingly, Eversource MA’s failure to properly prepare an EPA Manifest Form 8700-22 for shipment of approximately 3,558 pounds of PCB waste containing PCB

concentrations of 350 ppm from the Lee spill in accordance with the specifications and requirements of 40 C.F.R. § 761.207(a) is a violation of section 15 of TSCA and 40 C.F.R. § 207(a).

Failure to Properly Manifest – April 16, 2019

24. At all times relevant to this CAFO, the soils impacted by the transformer oil containing PCB concentrations of 350 ppm at the Lee spill met the definition of “PCB remediation waste” as defined at 40 C.F.R. § 761.3.

25. As identified in paragraph 18 above, the PCB remediation waste was required to be manifested as PCB regulated waste \geq 50 ppm.

26. Forty C.F.R. § 761.207 provides, in part, that a generator who relinquishes control over PCB wastes by transporting or offering to transport by his/her own vehicle or by the vehicle owned by another person, PCB waste for commercial off-site storage or disposal must prepare a manifest on EPA Form 8700-22 on which such generator specifies, for each bulk load of PCBs, the identify of such waste, the earliest date of removal from service for disposal, and the weight in kilograms of the PCB waste.

27. On April 16, 2019, Eversource MA shipped approximately 12,000 pounds of PCB waste containing PCB concentrations of 350 ppm from the Lee spill for disposal on Uniform Hazardous Waste Manifest No. 011906345 FLE as Non DOT Regulated Material, (Oily Solids 2-49 ppm PCB).

28. Accordingly, Eversource MA’s failure to properly prepare an EPA Manifest Form

8700-22 for shipment of approximately 12,000 pounds of PCB waste containing PCB concentrations of 350 ppm from the Lee spill in accordance with the specifications and requirements of 40 C.F.R. § 761.207(a) is a violation of section 15 of TSCA and 40 C.F.R. § 207(a).

B. Portland, Connecticut Site

29. On August 21, 2019, Eversource CT contacted the Connecticut Department of Energy and Environmental Protection (“CTDEEP”), Emergency Response and Spill Prevention Division (“ERU”) to report a release of approximately 90 gallons (90 – 122 gallons) of PCBs at a concentration of 260 ppm at some point in the last year from Eversource CT’s transformer located at the Elm Crest Hospital, vacant since 2006, located at 69 Marlborough Street, Portland, Connecticut (“the Site”). The release was discovered when the Eversource CT went to the Site because the Town of Portland wanted to demolish Site buildings.

30. On August 22, 2019, the CTDEEP PCB Unit, as a representative of EPA, conducted an inspection of the Site. (CT DEEP Inspection, Eversource Spill, 69 Marlborough St., Portland, CT, dated September 12, 2019.)

31. On September 4, 2019, the Eversource CT Environmental Coordinator provided CT DEEP with diagrams of the building, concrete slab, conduit windows, sampling locations and most sampling results received up to that time for the Site. Subsequently, Eversource CT provided CT DEEP with sampling results from Con-Test Analytical Laboratory for samples taken at the Site on August 20, 2019. (Email dated October 4, 2019 from Aaron Niderno, Eversource, to Gary

Trombly, CT DEEP with attached Con-Test Laboratory Report dated September 18, 2019.) The oil sample result documented that the oil in the transformer contained PCBs at a concentration of 260 ppm. Of the seven soil samples collected on that same day, results documented PCB concentrations at detectable levels in three of the four samples. The results were 0.098 ppm, 4.6 ppm, and 5.1 ppm. The concrete wipe samples documented PCBs at detectable levels of 19 ug/wipe and 75 ug/wipe.

32. At all times relevant to this CAFO, the transformer identified in paragraph 29 above was a “PCB Article” and “PCB Item” as defined at 40 C.F.R. § 761.3 with PCB concentrations of 260 ppm based on the Con-Test Laboratory Report dated September 18, 2019.

33. At all times relevant to this CAFO, the transformer was not in use. The Site had been vacant since 2006 and the transformer had been in storage since at least 2006.

34. At all times relevant to this CAFO, there was no indication of a roof and wall to prevent rainwater from reaching the transformer, and no berms or secondary containment surrounding the transformer. The PCB Item was located outside on a concrete pad at the Site.

35. The PCB Item was presumed to be waste as all operations at the Site had ceased and certain buildings had been or were being demolished. At all times relevant to this CAFO, Eversource CT had not notified EPA of its PCB waste handling activities in accordance with PCB regulations.

Improper Disposal

36. Pursuant to 40 C.F.R. § 761.3, PCB Waste(s) is defined to mean those PCBs and

PCB Items that are subject to the disposal requirements of subpart D of 40 C.F.R. Part 761.

37. Pursuant to 40 C.F.R. § 761.50(a), any person storing or disposing of PCB waste must do so in accordance with 40 C.F.R. §§ 761.50 through 761.79.

38. Pursuant to 40 C.F.R. § 761.50(a)(4), spills and other uncontrolled discharges of PCBs at concentrations of equal to or greater than 50 ppm constitute the disposal of PCBs.

39. Pursuant to 40 C.F.R. § 761.60(a), PCB liquids in concentrations equal to or greater than 50 ppm must be disposed of in an incinerator which complies with 40 C.F.R. § 761.70, except that PCB liquids at concentrations equal to or greater than 50 ppm and less than 500 ppm may be disposed of: for mineral oil dielectric fluid, in a high efficiency boiler according to § 761.70(a); for liquids other than mineral oil dielectric fluid, in a high efficiency boiler according to § 761.71(b); for liquids from incidental sources, such as precipitation condensation, leachate or load separation and are associated with PCB Articles or non-liquid PCB wastes, in a chemical waste landfill that complies with § 761.75 provided certain conditions are met.

40. At all times relevant to this CAFO, as described in paragraph 29 above, there was an uncontrolled discharge of PCB oil from the transformer onto a concrete pad and soil.

41. At all times relevant to this CAFO, as described in paragraph 31 above, oil containing PCBs at a concentration greater than or equal to 50 ppm leaked and/or spilled from the transformer.

42. Eversource CT effected the “disposal” of PCBs, as defined by 40 C.F.R. § 761.50(a)(4), by either spilling or allowing an uncontrolled discharge of the transformer oil

containing PCBs at concentrations greater than or equal to 50 ppm from the transformer.

43. At all times relevant to this CAFO, Eversource CT did not properly dispose of the leaked and/or spilled PCB transformer oil containing PCBs at concentrations greater than or equal to 50 ppm from the transformer in accordance with the requirements of 40 C.F.R. § 761.60(a).

44. Accordingly, Eversource CT's failure to properly dispose of the leaked and or spilled transformer oil containing PCBs at a concentration equal to or greater than 50 ppm from the transformer violated Section 15 of TSCA and 40 C.F.R. §§ 761.50(a) and 761.60(a).

Improper Storage Greater Than One Year

45. Pursuant to 40 C.F.R. § 761.65(a)(1), any PCB waste (PCBs or PCB Items at concentrations of 50 ppm or greater) must be disposed of within one year from the date it was determined to be PCB waste and the decision was made to dispose of it.

46. At all times relevant to this CAFO, the transformer at the Site described in paragraph 29 above was "PCB waste" as defined at 40 C.F.R. § 761.3.

47. At all times relevant to this CAFO, as described in paragraphs 29 and 33 above, the transformer at the Site has been in storage for disposal since at least 2006 or before that date.

48. At all times relevant to this CAFO, the transformer remained at the Site in storage for disposal and Eversource CT did not dispose of the transformer within one year from the date it was determined to be PCB waste and the decision was made to dispose of it.

49. Accordingly, Eversource CT's failure to dispose of PCB waste within one year of the date the transformers located at the Site was removed from service for disposal violated

Section 15 of TSCA and 40 C.F.R. § 761.65(a).

Improper Storage Area

50. Except as provided in 40 C.F.R. § 761.65(b)(2), (c)(1), (c)(7), (c)(9), and (c)(10), pursuant to 40 C.F.R. § 761.65(b), owners or operators of any facilities used for the storage of PCBs and PCB Items designated for disposal must comply with certain storage requirements.

51. Pursuant to 40 C.F.R. § 761.65(b)(1)(i) and (ii), the storage facility must have adequate roof and walls to prevent rain water from reaching the stored PCBs and PCB Items, and an adequate floor that has continuous curbing with a minimum 6-inch high curb.

52. At all times relevant to this CAFO, as described in paragraph 34 above, the transformer was located on a concrete pad without an adequate roof and walls and without continuous curbing with a minimum 6-inch high curb.

53. Eversource CT's failure to store PCB Transformers in a facility with an adequate roof and walls and without continuous curbing with a minimum 6-inch high curb violates 40 C.F.R. § 761.65(b).

Improper Storage – Failure to Inspect and Maintain Inspection Records

54. Pursuant to 40 C.F.R. § 761.65(c)(5), PCB Items in storage must be checked for leaks at least once every 30 days. Records of inspections, among other things, must be maintained in accordance with § 761.180(a) and (b).

55. Pursuant to 40 C.F.R. § 761.180(a), the owner or operator of a facility, other than a commercial storer or disposer of PCB waste, using or storing at any one time at least 45 kilograms

of PCBs contained in PCB Containers(s), or one or more PCB Transformers, or 50 or more PCB Large High or Low Voltage Capacitors, shall develop and maintain at the facility, all annual records and the written annual document log of the disposition of PCBs and PCB Items.

56. At all times relevant to this CAFO, each Respondent is not commercial storer or disposer of PCB waste.

57. At all times relevant to this CAFO, there is nothing to indicate the transformer described in paragraph 29 above, was inspected every 30 days for leaks or that records of leak inspections were maintained as required by 40 C.F.R. §761.65(c)(5).

58. Eversource CT's failure to conduct an inspection of the transformer every 30 days and to maintain records of those inspections violates 40 C.F.R. §761.65(c)(5).

Failure to Notify

59. Pursuant to 40 C.F.R. § 761.202(b)(1)(i), after June 4, 1990, a generator of PCB waste must not process, store, dispose of, transport, or offer for transportation PCB waste without having received an EPA identification number.

60. Pursuant to 40 C.F.R. § 761.202(a), any generator, commercial storer, transporter, or disposer of PCB waste who is required to have an EPA identification number must notify EPA of its PCB waste handling activities in accordance with 40 C.F.R. § 761.205. Upon receiving the notification form, EPA will assign an EPA identification number to facilities that do not have one.

61. At all times relevant to this CAFO, Eversource CT had not notified EPA of its storage of the PCB waste in the transformer described above in paragraph 29 and did not have an

EPA identification number.

62. Accordingly, Eversource CT's failure to notify EPA of its storage of the transformer and to have an EPA identification number violates 40 C.F.R. § 761.202(b)(1).

63. Eversource CT's failure to notify EPA of their PCB waste activities by filing EPA Form 7710-53 with EPA prior to engaging in PCB waste handling activities violates 40 C.F.R. § 761.205.

C. Bridgewater, Connecticut Site

64. On July 29, 2019, Eversource CT contacted the Connecticut Department of Energy and Environmental Protection ("CTDEEP"), Emergency Response and Spill Prevention Division ("ERU") to report a release of approximately 12 gallons of PCBs at a concentration of 330 ppm from Eversource CT's transformer located at 15 Pheasant Lane, Bridgewater, Connecticut ("the Bridgewater Site").

65. Eversource CT's July, 2019, 50-500 ppm spill report ("the spill report") indicates that on July 29, 2019, Eversource CT's 15 KVA overhead transformer released approximately 12 gallons of oil containing 330 ppm PCBs to soil at the Bridgewater Site.

66. The spill report also indicates that Clean Harbors responded to the spill at the Bridgewater Site with a rack truck, mini-excavator, and rolloff to clean the soil and transport the transformer. The spill report further describes that the impacted soil was excavated into the dumpster for disposal and notes that six post clean soil samples were taken. All six soil sample results, analyzed for PCBs, were non-detect; however, the spill report does not identify the

detection limit or provide a diagram of the actual location of the samples. The spill report further indicates no visible traces remain at the Bridgewater Site and the spill area is deemed clean.

67. On August 1, 2019, the CTDEEP PCB Unit, as a representative of EPA, conducted an inspection of the Bridgewater Site. (CT DEEP Inspection, Eversource Spill, 15 Pheasant Lane, Bridgewater, CT, dated August 29, 2019.) The report indicates visible staining and a heavy odor was present at the Bridgewater Site and that sampling was conducted, including collection of three composite soil samples. The samples were collected from the left and right side of the excavation and a sample from the center of the stained area.

68. On August 27, 2019, CT DEEP provided Eversource CT with the test results of three composite soil samples taken at the Bridgewater Site on August 1, 2019. Two of the three samples (one from the center of the excavation and one from the left side of the excavation perimeter) documented PCBs present at the Bridgewater Site at concentrations of 16.59 ppm and 1.53 ppm.

69. On August 28, 2019, Eversource CT returned to the Bridgewater Site with Clean Harbors to perform further cleanup, generating 600 pounds of soil.

70. A cleanup under the 40 C.F.R. Subpart G – PCB Spill Cleanup Policy, § 761.125(b)(ii) requires that all soil within the spill area (i.e. visible traces of soil and a buffer of 1 lateral foot around the visible traces) must be excavated, and the ground restored to its original configuration by backfilling with clean soil (i.e. containing less than 1 ppm PCBs). Forty C.F.R. § 761.125(b)(iii) requires that actions in section 761.125(b)(ii) be completed within 48 hours after

the responsible party was notified or became aware of the spill.

71. Forty C.F.R. Subpart G – PCB Spill Cleanup Policy, § 761.135(a) provides that compliance with the Policy creates a presumption against both enforcement action for penalties and the need for further cleanup under TSCA.

Improper Disposal

72. Pursuant to 40 C.F.R. § 761.50(a)(4), spills and other uncontrolled discharges of PCBs at concentrations of equal to or greater than 50 ppm constitute the disposal of PCBs.

73. Pursuant to 40 C.F.R. § 761.60(a), PCB liquids in concentrations equal to or greater than 50 ppm must be disposed of in an incinerator which complies with 40 C.F.R. § 761.70, except that PCB liquids at concentrations equal to or greater than 50 ppm and less than 500 ppm may be disposed of: for mineral oil dielectric fluid, in a high efficiency boiler according to § 761.70(a); for liquids other than mineral oil dielectric fluid, in a high efficiency boiler according to § 761.71(b); for liquids from incidental sources, such as precipitation condensation, leachate or load separation and are associated with PCB Articles or non-liquid PCB wastes, in a chemical waste landfill that complies with § 761.75 provided certain conditions are met.

74. At all times relevant to this CAFO, as described in paragraph 65 above, there was an uncontrolled discharge of PCB oil from the transformer onto soil at the Bridgewater Site.

75. At all times relevant to this CAFO, as described in paragraph 65 above, oil containing PCBs at a concentration greater than or equal to 50 ppm leaked and/or spilled from the transformer.

76. At all times relevant to this CAFO, Eversource CT's cleanup did not meet all conditions of the PCB Spill Cleanup Policy including removal of visible traces and backfill with clean soil within 48 hours. See 40 C.F.R. § 761.125(b)(ii) and (iii).

77. Eversource CT effected the "disposal" of PCBs, as defined by 40 C.F.R. § 761.50(a)(4), by either spilling or allowing an uncontrolled discharge of the transformer oil containing PCBs at concentrations greater than or equal to 50 ppm from the transformer.

78. At all times relevant to this CAFO, Eversource CT did not properly dispose of the leaked and/or spilled PCB transformer oil containing PCBs at concentrations greater than or equal to 50 ppm from the transformer in accordance with the requirements of 40 C.F.R. § 761.60(a).

79. Accordingly, Eversource CT's failure to properly dispose of the leaked and or spilled transformer oil containing PCBs at a concentration equal to or greater than 50 ppm from the transformer violated Section 15 of TSCA and 40 C.F.R. §§ 761.50(a) and 761.60(a).

IV. Terms of Consent Agreement

80. The provisions of this CAFO shall apply to and be binding on Respondents, their officers, directors, successors and assigns.

81. For the purposes of this CAFO, Respondents stipulate that EPA has jurisdiction over the subject matter alleged in the CAFO and also waive any defenses they may have as to jurisdiction and venue.

82. Respondents hereby waive their right to a judicial or administrative hearing or appeal on any issue of law or fact set forth in this CAFO.

83. Respondents also hereby waive their right to appeal the Final Order accompanying this Consent Agreement.

84. Without admitting or denying the specific factual allegations in this CAFO, Respondents hereby consent to the terms and the issuance of this CAFO, and consent for the purposes of settlement to the payment of the civil penalty as set forth in this CAFO.

85. Section 16(a) of TSCA, 15 U.S.C. § 2615(a), together with the Civil Monetary Penalty Inflation Rule (40 C.F.R. Part 19) authorizes the assessment of a civil administrative penalty of up to \$39,873 per day for each violation. EPA has compromised the maximum civil penalty of \$39,873 per day per violation authorized in this matter, applying the factors set forth in Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B), and the 1990 Polychlorinated Biphenyls (PCB) Penalty Policy” (April 9, 1990) (“PCB Penalty Policy”), issued by EPA. Pursuant to TSCA § 16(a)(1)(C), 15 U.S.C. § 2615(a)(1)(C), EPA may compromise, modify, or remit, with or without conditions, any civil penalty which may be imposed under this subsection. In light of the particular facts and circumstances of this matter, with specific reference to the statutory factors of Section 15(a) of TSCA, 15 U.S.C. § 2615(a), and considering the nature, circumstances, extent, and gravity of the violations, Respondents’ cooperative attitude, and such other matters as justice requires, EPA has determined that it is fair and proper to assess a civil penalty for violations alleged in this Agreement in the total amount of **\$129,428**. Respondents agree to pay the civil penalty of **\$129,428** (“EPA Penalty”) within 30 calendar days of the Effective Date of this Agreement. The civil penalty of \$129,428 consists of the following penalty amount for each

Respondent:

- a. Eversource MA shall pay a civil penalty of **\$43,636** for violations alleged in this Agreement at the Lee, Massachusetts Spill site;
- b. Eversource CT shall pay a civil penalty of **\$57,693** for violations alleged in this Agreement at the Portland, Connecticut Site, and a civil penalty of **\$28,099** for violations alleged in the Agreement at the Bridgewater, Connecticut Site.

Penalty Payment

86. Respondents shall pay the total penalty amount of **\$129,428** in the manner described below:

- a. Respondent, Eversource MA, shall make a single payment of **\$43,636** due within **30** calendar days of the Effective Date of this CAFO.
- b. Respondent, Eversource CT, shall make a single payment of **\$85,792**, due within 30 calendar days of the Effective Date of this CAFO.
- c. This CAFO shall become effective on the day it is filed with the Regional Hearing Clerk. If the due date for the payments falls on a weekend or federal holiday, then the due date is the next business day.
- d. The payment from each Respondent shall be made by remitting a check or making an electronic payment, as described below. The check or other payment shall reference *“In the Matter of: NSTAR Electric Company dba Eversource Energy and The Connecticut Light and Power Company dba Eversource Energy*

Consent Agreement and Final Order, EPA Region 1,” Respondents’ names and addresses, and the EPA Docket Number of this action (“TSCA-01-2020-0025 for NSTAR Electric Company dba Eversource Energy” and “TSCA-01-2020-0026 and TSCA-01-2020-0027 for The Connecticut Light and Power Company dba Eversource Energy), and shall be payable to “Treasurer, United States of America.” The payments shall be remitted as follows:

If remitted by regular U.S. mail:

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

If remitted by any overnight commercial carrier:

U.S. Bank
Government Lockbox 979077
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

If remitted by wire transfer: any wire transfer must be sent directly to the Federal Reserve Bank in New York City using the following information:

Federal Reserve Bank of New York

ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire message should read “D68010727

Environmental Protection Agency”

If remitted on-line with a debit card, credit card, or bank account transfer:

No user name, password, or account number is necessary for this option. On-line payment can be accessed via WWW.PAY.GOV, entering 1.1 in the form search box on the left side of the screen to access the EPA’s Miscellaneous Payment Form, opening the form, following the directions on the screen and, after selecting “submit data,” entering the relevant debit card, credit card, or bank account information.

87. At the time of payment, a copy of the check (or notification of any other type of payment) shall also be sent to:

Wanda Santiago
Regional Hearing Clerk
U.S. EPA, Region 1
One Post Office Square
Suite 100 (ORC 04-6)
Boston, MA 02109-3912

and

Cynthia Catri
Senior Enforcement Counsel
U.S. EPA, Region 1
One Post Office Square
Suite 100 (Mail Code 04-2)
Boston, MA 02109-3912

88. 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 as well as a charge to cover the cost of processing and handling a delinquent claim. Interest will begin to accrue on the civil penalty if it is not paid within 30 calendar days of the effective date of this CAFO. Interest

will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b)(2). A charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorneys' fees in accordance with 31 C.F.R. § 901.9(c). In addition, a penalty charge of six percent per year compounded annually will be assessed on any portion of the debt that remains delinquent more than ninety (90) days after payment is due in accordance with 31 C.F.R. § 901.9(d). Should assessment of the penalty charge on the debt be required, it will be assessed as of the first day that payment is due.

89. Respondents certify that they are now operating in compliance with the requirements of TSCA and 40 C.F.R. Part 761.

90. All penalties, interest, and other charges imposed in this CAFO shall represent civil penalties assessed by EPA and shall not be deductible for federal tax purposes.

91. Compliance with this CAFO, including payment of any penalties, interest, or other charges, shall not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by EPA, and does not waive, suspend, or modify the responsibility of Respondents to comply with such laws and regulations.

92. This CAFO constitutes a settlement by EPA of all claims for federal civil penalties pursuant to Section 16 of TSCA for the specific violations alleged in this CAFO. Nothing in this CAFO shall prevent EPA from taking any necessary action to address conditions at Respondents' facilities which may present an imminent and substantial endangerment to public health or the

environment nor shall this CAFO be construed to, nor is it intended to operate in any way to resolve any criminal liability or any other civil liability of the Respondents.

93. Except as described in paragraph 88, each party shall bear its own costs and fees in this proceeding, and specifically waives any right to recover such costs from the other parties pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504, or other applicable laws.

94. 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 enters into this CAFO on behalf of her/his respective party for: In The Matter of NSTAR ^{Electric} Energy Company dba Eversource Energy and The Connecticut Light and Power Company dba Eversource Energy, Docket Nos. TSCA-01-2020-0025, TSCA-01-2020-0026, and TSCA-01-2020-0027

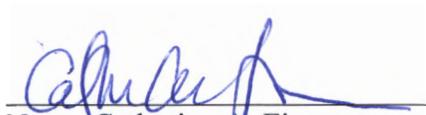
For NSTAR ^{Electric} Energy Company dba Eversource Energy:



Name: Catherine A. Finneran Date: 2/11/20
Title: Vice President, sustainability and Environmental Affairs
Company: NSTAR Electric Company dba Eversource Energy

THE UNDERSIGNED enters into this CAFO on behalf of her/his respective party for: In The Matter of NSTAR ^{Electric} Energy Company dba Eversource Energy and The Connecticut Light and Power Company dba Eversource Energy, Docket Nos. TSCA-01-2020-0025, TSCA-01-2020-0026, and TSCA-01-2020-0027

For The Connecticut Light and Power Company dba Eversource Energy:



Name: Catherine A. Finneran

2/11/2020

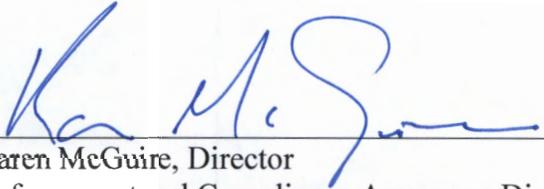
Date

Title: Vice President, Sustainability and Environmental Affairs

Company: Connecticut Light and Power Company dba Eversource Energy

THE UNDERSIGNED enters into this CAFO on behalf of her/his respective party for: In The Matter of NSTAR Electric Company dba Eversource Energy and The Connecticut Light and Power Company dba Eversource Energy, Docket Nos. TSCA-01-2020-0025, TSCA-01-2020-0026, and TSCA-01-2020-0027

For U.S. EPA, Region 1:



Karen McGuire, Director
Enforcement and Compliance Assurance Division
U.S. EPA, Region 1

2-20-20

Date

FINAL ORDER

95. Pursuant to 40 C.F.R. § 22.18(b)(3) of EPA's Consolidated Rules of Practice, the attached Consent Agreement resolving this matter is incorporated by reference into this Final Order and is hereby ratified.

96. Respondents, as specified in the Consent Agreement, are hereby ordered to comply with the terms of the Consent Agreement, effective on the date on which it is filed with the Regional Hearing Clerk.

SO ORDERED THIS 24th DAY OF February 2020



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

CERTIFICATE OF SERVICE

I certify that the foregoing “Consent Agreement” and “Final Order”, in the Matter of NSTAR Electric Company dba Eversource Energy and The Connecticut Light and Power Company dba Eversource Energy, Docket Nos. TSCA-01-2020-0025, TSCA-01-2020-0026, and TSCA-01-2020-0027 were sent to the following persons on the date noted below:

Original and One Copy
(Hand-Delivered):

Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency – Region 1
5 Post Office Square
Suite 100, ORC 04-6
Boston, MA 02109-3912

Copy, including
First-Class Mail

Charles J. Nicol, Senior Counsel
Eversource Energy
107 Selden Street
Berlin, CT 06037

Nancy Kaplan, Senior Counsel
Eversource Energy
800 Boylston Street, 17th Floor
Boston, MA 02199

Dated: 2/24/20

Cynthia Catri
Cynthia Catri
Senior Enforcement Counsel
U.S. Environmental Protection Agency – Region 1
5 Post Office Square
Suite 100, Mail Code 04-3
Boston, MA 02109-3912