

**EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS**

This form was originated by Wanda I. Santiago for Christie Foot 3/4/16  
Name of Case Attorney Date

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

Case Docket Number CWA-01-2015-0034

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:

Advance Coatings Company, Inc.  
PO Box 757  
42 Depot Road  
Westminster, MA 01473-0457

Total Dollar Amount of Receivable \$ 38,860 Due Date: 4/2/16

SEP due? Yes  No  Date Due \_\_\_\_\_

Installment Method (if applicable)

INSTALLMENTS OF:  
1<sup>ST</sup> \$ 12,121 on 3  
2<sup>ND</sup> \$ 19,673 on \_\_\_\_\_  
3<sup>RD</sup> \$ \_\_\_\_\_ on \_\_\_\_\_  
4<sup>TH</sup> \$ \_\_\_\_\_ on \_\_\_\_\_  
5<sup>TH</sup> \$ \_\_\_\_\_ 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 I  
FIVE POST OFFICE SQUARE SUITE 100  
BOSTON, MASSACHUSETTS 02109-3912

RECEIVED

MAR 02 2016

EPA ORC WS  
Office of Regional Hearing Clerk  
BY HAND

March 2, 2016

Wanda Santiago  
Regional Hearing Clerk  
U.S. Environmental Protection Agency - Region I  
5 Post Office Square  
Suite 100, Mail Code 18-1  
Boston, MA 02109-3912

Re: *In the Matter of: Advance Coatings Company, Inc.*; Docket No. CWA-01-2015-0034

Dear Ms. Santiago,

Enclosed for filing, please find an original and one copy of the Consent Agreement and Final Order (CAFO) settling the matter referenced above.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Christine Foot".

Christine Foot  
Enforcement Counsel  
EPA Region 1

Enclosures

cc: Robert D. Cox, Jr., Esq.



the administrative penalty for CWA violations against Respondent.

4. Section 309(g)(4)(A) of the CWA, 33 U.S.C. § 1319(g)(4)(A), provides that, prior to issuing an order assessing a penalty under Section 309(g) of the CWA, 33 U.S.C. § 1319(g), EPA must provide public notice of, and reasonable opportunity to comment on, the proposed issuance of such order. EPA has satisfied this requirement by providing public notice of, and reasonable opportunity to comment on, the proposed issuance of such order.

## **II. TERMS OF SETTLEMENT**

5. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in the Complaint.

6. Respondent waives any defenses it may have as to jurisdiction and venue. Respondent neither admits nor denies the specific factual or legal allegations, including without limitation, any of the violations alleged in the Complaint, except as expressly stated in the CAFO.

Respondent consents to the terms of this CAFO.

### **Waiver of Rights**

7. Respondent hereby waives its right to request a hearing under Section 309(g)(2)(B), 33 U.S.C. § 1319(g)(2)(B), and to any appeal of the Final Order in this matter under Section 309(g)(8)(B), 33 U.S.C. § 1319(g)(8)(B). Respondent consents to the issuance of the Final Order included with this Consent Agreement without further adjudication.

### **Penalty**

8. EPA proposes and Respondent consents to the assessment of a civil penalty in the amount of \$38,860 for all violations contained in this CAFO.

### **Payment Terms**

9. In agreeing to the penalty described in paragraph 8 above, EPA has taken into account the statutory penalty factors at Sections 309(g)(3) and 311(b)(8) of the CWA, 33 U.S.C.

§§ 1319(g)(3) and 1321(b)(8).

10. Of the total amount, \$26,739 shall represent payment for Respondent's violations of Sections 301, 307, and 308 of the CWA, 33 U.S.C. §§ 1311, 1317, and 1318, and \$12,121 shall represent payment for Respondent's violation of Section 311 of the CWA, 33 U.S.C. § 1321.

11. Respondent shall pay the total penalty of \$38,860 in two (2) installments. The first installment shall be paid within ten (10) calendar days of the date this CAFO becomes final and shall consist of two payments that total \$19,430. Of that first installment, Respondent shall pay a penalty of \$12,121 for the violations of Section 311 of the CWA, and, at the same time, Respondent shall pay \$7,309 of the penalty for the violations of Sections 301, 307, and 308 of the CWA. The second installment, comprising the remaining penalty for the violations of Sections 301, 307, and 308 of the CWA, shall be in the amount of \$19,673 (*i.e.*, \$19,430 in principal, plus \$243 in interest) and shall be due within six (6) months of the date this CAFO becomes final.

12. Respondent shall make each payment by cashier's or certified check, or by wire transfer. Respondent shall include the case name and docket number (*In re: Advance Coatings Company*; Docket No. CWA-01-2015-0034) on the face of each check or wire transfer confirmation. For the payment relating to the violation of Section 311 of the CWA (\$12,121), the face of the check or wire transfer confirmation shall additionally include "Oil Spill Liability Trust Fund – 311." A check should be payable to "Treasurer, United States of America." Each payment shall be remitted as follows:

If remitted by regular U.S. mail:

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

If remitted by any overnight commercial carrier:

U.S. Bank  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
St. Louis, Missouri 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, New York 10045  
Field Tag 4200 of the Fedwire message should read:  
"D 68010727 Environmental Protection Agency"

In addition, at the time of payment, Respondents should also forward notice of payment of the civil penalty as well as copies of the payment check or payment receipt to:

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

and

Christine M. Foot  
Enforcement Counsel  
U.S. Environmental Protection Agency, Region 1  
5 Post Office Square, Suite 100  
Mail Code: OES 04-2  
Boston, Massachusetts 02109-3912

13. If Respondent fails to make any of the payments required by Paragraph 11 by the required due dates, all remaining installments shall become immediately due and payable as of the missed payment date. Interest on such unpaid penalty amounts shall accrue from the missed payment date until the total amount due has been received by the United States. Respondent shall be liable for such amounts regardless of whether EPA has notified Respondent of its failure

to pay or made demand for payment. All payments to the United States under this paragraph shall be made as described in Paragraph 12.

14. Pursuant to Sections 309(g)(9) and 311(b)(6)(H) of the CWA, 33 U.S.C. §§ 1319(g)(9) and 1321(b)(6)(H), a failure by the Respondents to pay the penalty assessed by this CAFO in full by its due date shall subject Respondents to a civil action to collect the assessed penalty, plus interest at the prevailing rates, from the date this CAFO becomes final. The rate of interest assessed shall be at the rate set forth in 31 C.F.R. § 901.9(b), promulgated under 31 U.S.C. § 3717. Any person who fails to pay on a timely basis the amount of an assessed penalty shall be required to pay, in addition to such amount and interest, attorney's fees, costs for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to twenty percent of the aggregate amount of such person's penalties and nonpayment penalties that are unpaid as of the beginning of such quarter. In any such collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

15. The civil penalty provided under this CAFO, and any interest, nonpayment penalties, and charges described in this CAFO, shall represent penalties assessed by EPA within the meaning of 26 U.S.C. § 162(f) and are not tax deductible for purposes of federal law. Accordingly, Respondent agrees to treat all payments made pursuant to this CAFO as penalties within the meaning of 26 C.F.R. § 1.162-21, and further agrees not to use those payments in any way as, or in furtherance of, a tax deduction under federal, state, or local law.

#### **General Provisions**

16. The provisions of this CAFO shall apply to and be binding on Respondent, its officers, directors, agents, servants, employees, successors, and assigns.

17. This CAFO does not constitute a waiver, suspension, or modification of the

requirements of the CWA, or any regulations promulgated or permits issued thereunder.

Payment of the penalty pursuant to this CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts alleged in the Complaint.

18. This CAFO in no way relieves Respondent or its employees of any criminal liability, and EPA reserves all its other criminal and civil enforcement authorities, including the authority to seek injunctive relief and the authority 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.

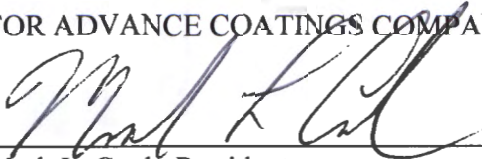
19. Nothing in this agreement shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondent's violation of this CAFO or of the statutes and regulations upon which the Complaint and this CAFO is based, or for Respondent's violation of any applicable provision of law.

20. The Parties shall bear their own costs and fees in this action, including attorney's fees, and specifically waive any right to recover such costs from the other party pursuant to the Equal Access to Justice Act, 5 U.S.C § 504, or other applicable laws.

21. 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 CAFO and to execute and legally bind that party to it.



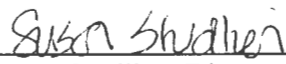
FOR ADVANCE COATINGS COMPANY:

  
\_\_\_\_\_

Mark L. Cook, President  
Advance Coatings Company

Date: 2/24/16

FOR U.S. ENVIRONMENTAL PROTECTION AGENCY:

  
\_\_\_\_\_

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


Date: 03/02/2016

**FINAL ORDER**

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Order. The Respondent is hereby ordered to comply with the terms of the above Consent Agreement, which will become final thirty (30) days from the date it is signed by the Regional Judicial Officer.

Date:

3/02/16



\_\_\_\_\_  
H. Curtis Spalding, Regional Administrator  
U.S. Environmental Protection Agency, Region 1

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1

\_\_\_\_\_  
IN THE MATTER OF: )  
)

ADVANCE COATINGS COMPANY INC. )  
Westminster, Massachusetts )

Respondent. )  
)  
)  
)  
)  
\_\_\_\_\_

Docket No. CWA-01-2015-0034

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing Consent Agreement and Final Order has been sent to the following persons on the date noted below:

Original and one copy,  
hand-delivered:

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

Copy (Certified Mail,  
Return Receipt Requested):

Robert D. Cox, Jr., Esq.  
Bowditch & Dewey, LLP  
311 Main Street  
Worcester, MA 01615-0156

Dated: 3/2/16

  
Christine Foot, Enforcement Counsel  
U.S. Environmental Protection Agency, Region 1  
5 Post Office Square, Suite 100  
Mail Code OES04-2  
Boston, MA 02109-3912  
Phone: 617-918-1333  
Fax: 617-918-0333  
E-mail: foot.christine@epa.gov