

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Christine Foot 9/14/16
Name of Case Attorney Date

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

Case Docket Number RCRA-01-2015-0073

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:

Specialty Materials Business Trust
d/b/a Specialty Materials, Inc.
1449 Middlesex Street
Lowell, MA 01851

Total Dollar Amount of Receivable \$ 150,000 Due Date: 7/14/18

SEP due? Yes No Date Due _____

Installment Method (if applicable)

INSTALLMENTS OF:

1 st \$ <u>18,750</u> on <u>10/14/16</u>	6 th <u>19,500</u> on <u>1/14/18</u>
2 nd \$ <u>19,500</u> on <u>1/14/16</u>	7 th <u>19,500</u> on <u>4/14/18</u>
3 rd \$ <u>19,500</u> on <u>4/14/16</u>	8 th <u>19,500</u> on <u>7/14/18</u>
4 th \$ <u>19,500</u> on <u>7/14/16</u>	
5 th \$ <u>19,500</u> on <u>10/14/17</u>	

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

SEP 14 2016

EPA ORC
Office of Regional Hearing Clerk
BY HAND

September 14, 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: Specialty Materials Business Trust*; Docket No. RCRA-01-2015-0073

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 that reads "Christine M Foot".

Christine Foot
Enforcement Counsel
EPA Region 1

Enclosures

cc: Matthew C. Donahue, Esq.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I**

In the Matter of:)
)
SPECIALTY MATERIALS BUSINESS TRUST)
d/b/a SPECIALTY MATERIALS, INC.)
1449 Middlesex Street)
Lowell, MA 01851)
)
Respondent)
)
)
Proceeding under Section 3008(a) of the)
Resource Conservation Recovery)
Act, 142 U.S.C. § 6928(a))
)

EPA Docket No. RCRA-01-2015-0073

**CONSENT AGREEMENT AND
FINAL ORDER**

RECEIVED

SEP 14 2016

EPA ORC WS
Office of Regional Hearing Clerk

CONSENT AGREEMENT

The United States Environmental Protection Agency (“EPA” or “Complainant”) filed a civil Administrative Complaint, Compliance Order, and Notice of Opportunity for Hearing (“Complaint”) on January 21, 2016, against Respondent, Specialty Materials Business Trust, d/b/a Specialty Materials, Inc. (“Specialty Materials” or “Respondent”). The Complaint alleged violations at Respondent’s facility located in Lowell, Massachusetts (the “Facility”) under Sections 3002 and 3005 of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. §§ 6922 and 6925; the regulations promulgated thereunder at 40 C.F.R. Parts 262 and 265; Chapter 21C of the Massachusetts General Laws; and the regulations promulgated thereunder found at Title 310, Chapter 30 of the Code of Massachusetts Regulations set forth at 310 C.M.R. 30.000 *et seq.*

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 settling this matter. Therefore, before taking any testimony, without any adjudication of issues of law or fact herein, and upon consent and agreement of the parties, it is hereby Ordered and Adjudged as follows:

I. PRELIMINARY STATEMENT

1. EPA is pursuing this proceeding for the assessment of a civil penalty pursuant to Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

2. The Complainant alleged in the Complaint that Respondent failed to: (a) keep containers of hazardous waste closed except when adding or removing waste in violation of 310 C.M.R. 30.685(1), which is required by 310 C.M.R. 30.342(1)(c); (b) fully label containers of hazardous waste, in violation of 310 C.M.R. 30.341(2)(a), (b), and (c); (c) mark containers of hazardous waste with the date that accumulation began, in violation of 310 C.M.R. 30.341(2)(d); (d) store containers of hazardous waste to allow them to be inspected and to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment, in violation of 310 C.M.R. 30.685(4), which is required by 310 C.M.R. 30.342(1)(c), and 310 C.M.R. 30.524(5), which is required by 310 C.M.R. 30.341(1)(e)(6); (e) determine whether approximately fifty-four (54) containers of waste at the Facility were hazardous, in violation of 310 C.M.R. 30.302; (f) equip the hazardous waste storage area with the required emergency prevention and response equipment and information, in violation of 310 C.M.R. 30.524(2), which is required by 310 C.M.R. 30.341(1)(e)(4); (g) electrically ground or otherwise take precautions to prevent accidental ignition of a container of ignitable waste, in violation of 310 C.M.R. 30.560(1)(f), which is required by 310 C.M.R. 341(1)(f); (h) conduct weekly inspections of areas where containers of hazardous waste were stored and/or record those

inspections, in violation of 310 C.M.R. 30.686 and 310 C.M.R. 30.342(1)(d); (i) ensure that that all hazardous wastes were stored in containers that were in good condition, or were transferred to other containers that were in good condition, in violation of 310 C.M.R. 30.683, which is required by 310 C.M.R. 30.342(1)(a); (j) keep incompatible wastes and materials separated from each other by means of a dike, berm, wall, or other device, in violation of 310 C.M.R. 30.688(4), which is required by 310 C.M.R. 30.342(1)(f); (k) store hazardous waste for no more than ninety days without a license, in violation of 310 C.M.R. 30.801(1), 310 C.M.R. 30.340(4), and Section 3005 of RCRA, 42 U.S.C. § 6925; (l) maintain an adequate up-to-date hazardous waste contingency plan, in violation of 310 C.M.R. 30.521 and 310 C.M.R. 30.523, which are required by 310 C.M.R. 30.341(1); (m) prepare and maintain a written training plan at the Facility, in violation of 310 C.M.R. 30.516(2), which is required by 310 C.M.R. 30.341(1)(a); and (n) provide training to employees with hazardous waste management responsibilities, in violation of 310 C.M.R. 30.516(1), which is required by 310 C.M.R. 30.341(1)(a).

3. As part of its Complaint, Complainant also ordered (“RCRA Order”) Respondent to correct the deficiencies alleged in the Complaint and to submit to Complainant written confirmation of its compliance (accompanied by a copy of any appropriate supporting documentation) or noncompliance with the requirements set forth in the RCRA Order.

4. The provisions of this CAFO shall apply to and be binding upon EPA and Respondent and its successors or assigns.

5. Respondent: (a) admits that EPA has jurisdiction over the subject matter alleged in the Complaint; (b) neither admits nor denies the factual allegations contained in the Complaint; and (c) consents to the terms of this CAFO.

6. Respondent hereby waives its right to a judicial or administrative hearing or appeal on any issue of law or fact set forth in the Complaint and waives its right to appeal the proposed Final Order accompanying this Consent Agreement.

II. TERMS OF SETTLEMENT

7. Respondent has demonstrated to the satisfaction of EPA that it has complied with the terms of the RCRA Order. Further, Respondent certifies that the Facility is, as of the date of this CAFO, in compliance with the requirements of RCRA, the federal regulations promulgated thereunder, and the Massachusetts hazardous waste regulations, with respect to Respondent's management of hazardous waste.

8. Pursuant to Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g), based on the nature of the violations alleged in EPA's Complaint and other relevant factors, EPA has determined that an appropriate civil penalty to settle all of the Counts alleged in the Complaint, and listed in Paragraph 2 above, is in the amount of \$150,000.

9. Respondent consents to the issuance of this CAFO and consents for the purposes of settlement to the payment of the civil penalty cited in the forgoing paragraph.

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

11. Respondent shall pay the civil penalty of \$150,000 in eight (8) installments. The first payment shall be \$18,750 and shall be made within thirty (30) days of the effective date of this CAFO. The second payment shall be \$19,500 (consisting of \$18,750 in principal plus \$750 in interest) and shall be made within four (4) months of the effective date of this CAFO. The third payment shall be \$19,500 (consisting of \$18,750 in principal plus \$750 in interest) and shall be

made within seven (7) months of the effective date of this CAFO. The fourth payment shall be \$19,500 (consisting of \$18,750 in principal plus \$750 in interest) and shall be made within ten (10) months of the effective date of this CAFO. The fifth payment shall be \$19,500 (consisting of \$18,750 in principal plus \$750 in interest) and shall be made within thirteen (13) months of the effective date of this CAFO. The sixth payment shall be \$19,500 (consisting of \$18,750 in principal plus \$750 in interest) and shall be made within sixteen (16) months of the effective date of this CAFO. The seventh payment shall be \$19,500 (consisting of \$18,750 in principal plus \$750 in interest) and shall be made within nineteen (19) months of the effective date of this CAFO. The eighth and final payment shall be \$19,500 (consisting of \$18,750 in principal plus \$750 in interest) and shall be made within twenty-two (22) months of the effective date of this CAFO. For each payment, Respondent shall pay by cashier's or certified check, or by wire transfer and shall include the case name and docket number (RCRA-01-2015-0073) on the face of the check or wire transfer confirmation. A check should be payable to "Treasurer, United States of America." The 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, MO 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, Respondent should also forward notice of payment of the civil penalty, as well as copies of the payment check or payment receipt, to:

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

and

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

12. 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 by cashier's or certified check as described in Paragraph 11.

13. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent

claim. In the event that any partial payment of the civil penalty, plus interest thereon, is not paid when due without demand, the penalty plus accrued interest shall be payable with additional interest from the original due date to the date of payment, 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 attorney's fees. In addition, a penalty charge of six percent per year will be assessed on any portion of the debt which remains delinquent more than 90 days after payment is due. However, should assessment of the penalty charge on the debt be required, it will be assessed as of the first day payment is due under 31 C.F.R. § 901.9(d).

14. All penalties, interest, and other charges payable pursuant to this CAFO shall represent penalties assessed by EPA and shall not be deducted for purposes of federal taxes. Accordingly, Respondent agrees to treat all payments made pursuant to this CAFO as penalties within the meaning of Section 1.62-21 of the Internal Revenue Code, 26 U.S.C. § 162-21, and further agrees not to use these payments in any way as, or in furtherance of, a tax deduction under federal, state, or local law.

15. Payment of the penalties, interest, or other charges does not waive, suspend, or modify the responsibility of Respondent to comply with the requirements of all of the federal, and federally authorized, laws and regulations administered by EPA and, except as provided in paragraph 16 herein, shall not be a defense to any actions subsequently commenced pursuant to said laws and regulations.


16. This CAFO constitutes a settlement by EPA with regard to all claims for civil penalties for the violations specifically alleged in the Complaint. Nothing in this CAFO is intended to nor

shall be construed to operate in any way to resolve any criminal liability of the Respondent. Nothing in the CAFO shall be construed to limit the authority of the United States to undertake any action against Respondent in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.

17. Each party shall bear its own costs and attorney's fees in connection with the action resolved by this CAFO, and specifically waives any right to recover such costs, disbursements, or fees from the other party pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504, or other applicable law.

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

For Respondent:



Mr. Monte Treasure, President
Specialty Materials Business Trust d/b/a
Specialty Materials, Inc.
1449 Middlesex Street
Lowell, Massachusetts 01851

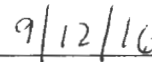


Date

For EPA:




Joanna Jerison, Legal Enforcement Manager
U.S. Environmental Protection Agency, Region 1
5 Post Office Square Suite 100
Mail Code OES04-2
Boston, MA 02109-3912



Date

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, effective on the date it is filed with the Regional Hearing Clerk.



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

Date: 9/12/16

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I**

In the Matter of:)	
)	
SPECIALTY MATERIALS BUSINESS TRUST)	EPA Docket No. RCRA-01-2015-0073
d/b/a SPECIALTY MATERIALS, INC.)	
1449 Middlesex Street)	
Lowell, MA 01851)	
)	CERTIFICATE OF SERVICE
Respondent)	
)	
)	
Proceeding under Section 3008(a) of the)	
Resource Conservation Recovery)	
Act, 142 U.S.C. § 6928(a))	
)	

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

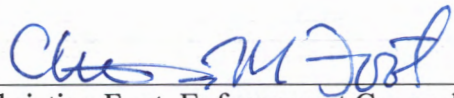
Original and one copy,
hand-delivered:

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):

Matthew C. Donahue, Esq.
Eno Martin Donahue LLP
21 George Street
Lowell, MA 01852

Dated: 9/14/14


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