

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Cynthia Catri  
Name of Case Attorney

7/12/16  
Date

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

Case Docket Number CWA-01-2016-0022 & EPCRA-01-2016-0023

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:

Harold Bumby  
Maine Wood Treeters, Inc.  
58 Walker Road  
Mechanic Falls, ME 04256

Total Dollar Amount of Receivable \$ 15,000 Due Date: 7/7/17

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

Installment Method (if applicable)

INSTALLMENTS OF:

1<sup>ST</sup> \$ 5,000 on 7/22/16  
2<sup>ND</sup> \$ 5,167 on 12/24/16  
3<sup>RD</sup> \$ 5,100 on 7/7/17  
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 1**

\_\_\_\_\_  
)  
IN THE MATTER OF )  
)  
**THE MAINE WOOD TREATERS, INC.** )  
58 Walker Road )  
Mechanic Falls, ME 04256 )  
)  
Respondent )  
)  
Proceeding under Section 325(c) of the )  
Emergency Planning and Community )  
Right-to-Know Act, 42 U.S.C. § 11045(c) )  
and Section 309(g) of the Clean Water Act, )  
33 U.S.C. § 1319(g) )  
\_\_\_\_\_)

Docket No: CWA-01-2016-0022  
EPCRA-01-2016-0023

**CONSENT AGREEMENT  
AND FINAL ORDER**

**RECEIVED**  
**JUL 12 2016**  
EPA ORC *WJ*  
Office of Regional Hearing Clerk

Complainant, the United States Environmental Protection Agency, Region 1 (“EPA”) alleges that The Maine Wood Treaters, Inc. (hereinafter referred to as “Respondent”) has violated Section 313 of Title III of the Superfund Amendments and Reauthorization Act, 42 U.S.C. § 11023 (also known as the Emergency Planning and Community Right-to-Know Act or “EPCRA”) and the federal regulations promulgated thereunder, and Section 301 of the Clean Water Act (“CWA”), 33 U.S.C. § 1311(a).

EPA 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) and 22.18(b)(2) of EPA’s “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits,” 40 C.F.R. Part 22, EPA and Respondent agree to simultaneously commence and settle this action by the issuance of this CAFO.

*JHB*

Pursuant to Section 309(g)(1) of the CWA, 33 U.S.C. § 1319(g)(1) and 40 C.F.R. § 22.38(b), EPA has notified the state of Maine of this action.

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.

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

**I. STATUTORY AND REGULATORY AUTHORITY**

**EPCRA**

1. Pursuant to Sections 313 and 328 of EPCRA, 42 U.S.C. §§ 11023 and 11048, EPA promulgated the Toxic Chemical Release Reporting: Community Right-to-Know Rule, 40 C.F.R. Part 372.

2. Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), requires owners or operators of a facility subject to the requirements of Section 313(b) to submit annually, no later than July 1 of each year, a Toxic Chemical Release Inventory Reporting Form, EPA Form 9350-1 (hereinafter "Form R"), for each toxic chemical listed under 40 C.F.R. § 372.65 that was manufactured, processed, or otherwise used during the preceding calendar year in quantities exceeding the toxic chemical thresholds established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25. If the owner or operator determines that the alternative reporting threshold

JHS

specified in 40 C.F.R. § 372.27 applies, the owner or operator may submit an alternative threshold certification statement that contains the information required under 40 C.F.R. § 372.95 (the alternative threshold certification statement is also known as “Form A”). Each Form R or Form A is required to be submitted to the Administrator of EPA and to the state in which the subject facility is located. Forms R and Forms A are hereinafter referred to as “TRI Forms.”

3. Section 313(b) of EPCRA, 42 U.S.C. § 11023(b), and 40 C.F.R. § 372.22 provide that owners or operators of facilities that have 10 or more full-time employees; that are in a Standard Industrial Classification (“SIC”) code or North American Industry Classification System (“NAICS”) code set forth in 40 C.F.R. § 372.23; and that manufactured, processed, or otherwise used a toxic chemical listed under 40 C.F.R. § 372.65 in a quantity exceeding the established threshold during a calendar year are required to submit a Form R or Form A for each of these substances for that year.

4. Section 325(c) of EPCRA, 42 U.S.C. § 11045(c) (as amended by the Federal Civil Penalties Inflation Adjustment Act, 28 U.S.C. § 2461, and the Debt Collection Improvement Act, 31 U.S.C. § 3701), and EPA’s Civil Monetary Penalty Inflation Adjustment Rule, promulgated thereunder at 40 C.F.R. Part 19, authorizes the assessment of civil administrative penalties of up to \$37,500 per day for each violation of Section 313 of EPCRA that occurred after January 12, 2009.

CWA

5. The CWA is designed to restore and maintain the chemical, physical, and biological integrity of the nation’s waters. Section 101(a) of the Act, 33 U.S.C. § 1251(a).

6. To accomplish the objectives of the Act, Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants by any person into navigable waters except in

compliance with the terms and conditions of a permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, and EPA's implementing regulations, found at 40 C.F.R. Part 122.

7. Section 502(5) of the CWA, 33 U.S.C. § 1362(5), defines "person" to include "an individual, corporation, partnership [or] association."

8. Section 502(12) of the CWA, 33 U.S.C. § 1362(12), defines "discharge of a pollutant" to include "any addition of any pollutant to navigable waters from any point source."

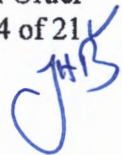
9. Section 502(6) of the CWA, 33 U.S.C. § 1362(6), defines "pollutant" to include, among other things, chemical wastes, biological materials, rock, sand, and industrial waste discharged into water.

10. Section 502(14) of the CWA, 33 U.S.C. § 1362(14), defines "point source" to include "any discernible, confined and discrete conveyance . . . from which pollutants are or may be discharged."

11. Section 502(7) of the CWA, 33 U.S.C. § 1362(7), defines "navigable waters" as "the waters of the United States, including the territorial seas."

12. At the time of violations alleged herein, 40 C.F.R. § 122.2 defined "waters of the United States" to include, among other things: (i) all waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce; (ii) all inter-state waters; (iii) tributaries to such waters; and (iv) wetlands adjacent to such waters or their tributaries.

13. Section 402(p) of the CWA, 33 U.S.C. § 1342(p), requires any stormwater discharge "associated with industrial activity" to be authorized by a National Pollutant Discharge Elimination System ("NPDES") permit.



14. Section 308(a) of the CWA, 33 U.S.C. § 1318(a), authorizes the Administrator of EPA to require the owner or operator of any point source to provide such information as the Administrator may reasonably need to carry out the objectives of the CWA, including, among other things, the development and issuance of NPDES permits under Section 402 of the CWA, 33 U.S.C. § 1342.

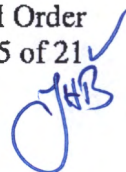
15. Pursuant to Sections 308 and 402 of the CWA, 33 U.S.C. §§ 1318 and 1342, EPA promulgated stormwater discharge regulations at 40 C.F.R. § 122.26.

16. Forty C.F.R. § 122.26(c)(1) provides that dischargers of stormwater “associated with industrial activity” are required to apply for an individual permit, apply for a permit through a group application, or seek coverage under a general permit.

17. Forty C.F.R. § 122.26(b)(13) defines “storm water” to include stormwater runoff, snow melt runoff, and surface runoff and drainage.

18. Section 402(b) of the CWA, 33 U.S.C. § 1342(b), provides that the EPA Administrator may authorize a state to issue NPDES permits in accordance with the requirements of the CWA. On January 12, 2001, the Administrator granted the State of Maine the authority to issue Maine Pollutant Discharge Elimination System (“MEPDES”) permits for all areas of the State other than Indian Country pursuant to Section 402(b) of the CWA, 33 U.S.C. § 1342(b). On October 31, 2003, EPA approved the State of Maine’s application to administer the NPDES program in Indian territories (with certain exceptions). On March 26, 2012, EPA granted Maine additional authority for issuing and administering permits for specific treatment works owned by certain Indian tribes in Maine.

19. Section 402(p), 33 U.S.C. § 1342(p), EPA’s implementing regulation 40 C.F.R. § 122.26(a)(1)(ii), and Section 9(a)(1)(ii) of the State of Maine Department of Environmental



Protection (“MEDEP”) Rules concerning Applications for Waste Discharge Licenses, 06-096 C.M.R. 521(9)(a)(1)(ii), require stormwater discharges “associated with industrial activity” to be authorized by a NPDES permit.

20. Forty C.F.R. § 122.26(b)(14)(ii) and Chapter 521, Section 9(b)(14)(ii) of the MEDEP Rules concerning Applications for Waste Discharge Licenses, 06-096 C.M.R. 521(9)(b)(14)(ii), specify that “storm water discharge associated with industrial activity” includes stormwater discharge from facilities classified as Standard Industrial Classification (“SIC”) 2491(Sector A: Timber Products (wood preserving)).

21. On October 11, 2005, MEDEP issued the 2005 MEPDES Multi-Sector General Permit for Stormwater Discharge Associated with Industrial Activity (“2005 MEMSGP”). Although the expiration date for the 2005 MEMGSP was originally set for October 11, 2010, it remained in effect until the effective date of the 2011 MEDPES Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (“2011 MEMSGP”), which was April 26, 2011. The expiration date of the 2011 MEMSGP is April 25, 2016.

22. Under the 2011 MEMSGP, a facility discharging stormwater “associated with industrial activities” is required to submit a Notice of Intent (“NOI”), prepare and implement a Stormwater Pollution Prevention Plan (“SWPPP”), conduct inspections, conduct monitoring and sampling, and meet other eligibility requirements.

23. Part V.A. of the 2011 MEMSGP requires that the SWPPP must describe and ensure the implementation and maintenance of Best Management Practices (“BMPs”) and Control Measures as described in Part V. of the 2011 MEMSGP. Implementation of the SWPPP must reduce or eliminate polluted stormwater discharges associated with industrial activity, and assure compliance with the 2011 MEMSGP.



24. Section 309(g) of the CWA, 33 U.S.C. § 1319, provides for the assessment of penalties for violations of Section 301 of the CWA, 33 U.S.C. §§ 1311, and for violating any condition or limitation in a permit issued under Section 402 of the CWA, 33 U.S.C. § 1342.

## II. GENERAL ALLEGATIONS

25. The Maine Wood Treaters, Inc. is a corporation organized under the laws of the State of Maine with a usual place of business at 58 Walker Road in Mechanic Falls, Maine 04256.

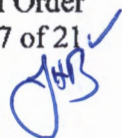
26. As a corporation, Respondent is a “person” within the meaning of Section 329(7) of EPCRA, 42 U.S.C. § 11049(7) and Section 502(5) of the CWA, 33 U.S.C. § 1362(5).

27. Respondent owns and operates a wood treating facility, which uses various copper compounds/solutions for the pressure treatment of wood commodities, located at 58 Walker Road in Mechanic Falls, Maine (“the Facility”).

28. At all times relevant to this CAFO, Respondent was the owner and/or operator of a “facility” as that term is defined by Section 329(4) of EPCRA, 42 U.S.C. § 11049(4) and 40 C.F.R. § 372.3.

29. The facility is a covered facility under 40 C.F.R. § 372.22 for toxic chemical release reporting because it (a) has more than 10 “full-time employees” as that term is defined by 40 C.F.R. § 372.3, and the facility is classified in a SIC code or NAICS code set forth in 40 C.F.R. § 372.23.

30. During the calendar years 2010, 2011, and 2013, Respondent processed copper compounds, a toxic chemical listed under 40 C.F.R. § 372.65 in quantities exceeding the established threshold of 25,000 pounds set forth at 40 C.F.R. § 372.25.





31. The requirements of Section 313 of EPCRA, 42 U.S.C. § 11023 apply to Respondent's facility.

32. On December 15, 2014, a duly authorized representative of EPA conducted a compliance evaluation inspection of the facility (the "EPCRA Inspection") to determine its compliance with EPCRA reporting requirements.

33. Respondent submitted a Notice of Intent for coverage for the Facility under the 2011 MEMSGP, received by the MEDEP on May 17, 2011.

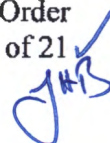
34. MEDEP provided acknowledgement to Respondent on June 8, 2011, indicating that the active date of 2011 MEMSGP Permit coverage for the Facility (permit #MER05B253) was April 26, 2011.

35. Stormwater runoff from the Facility drains to a swale northeast of the treatment building at the Facility, or into one of two retention ponds located north (Pond 1) and south (Pond 2) of the wetland area on site.

36. Discharges from the ponds flow into the wetlands, which are adjacent to, and together with similarly situated wetlands in the region significantly affect the chemical, physical and/or biological integrity of, the Little Androscoggin River.

37. Discharge pipes from the Ponds are "point source[s]" within the meaning of Section 502(14) of the CWA, 33 U.S.C. § 1362(14).

38. The discharges from discharge pipes contain chemical wastes, biological materials, rock, sand, and industrial waste which are "pollutant[s]" within the meaning of section 502(6) of the CWA, 33 U.S.C. § 1362(6).

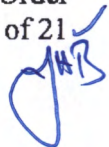


39. The wetlands described above and the Little Androscoggin River are “waters of the United States,” within the meaning of the CWA and the regulations promulgated thereunder that were in effect at the time of Respondent’s activities.

40. On February 18, 2010, MEDEP staff conducted an industrial stormwater inspection at the Facility to determine the Facility’s compliance with the 2005 MEMSGP. By letter dated March 22, 2011, MEDEP informed Respondent, among other things, that:

- Visual monitoring must be conducted on a quarterly basis and all monitoring records must be kept with the SWPPP. MEDEP noted at the time of the inspection quarterly visual monitoring was not being performed and must begin immediately;
- Quarterly site inspections must be conducted and all records of such inspections must be kept with the SWPPP, including any corrective actions;
- Monthly site inspections must be conducted and documented and proper records must be kept with the SWPPP;
- The SWPPP must be updated to clearly describe the drainage pathways at the Facility; and
- Snow plowing and spring maintenance BMPs must be described in the SWPPP.

41. On April 10, 2012, MEDEP staff conducted another industrial stormwater inspection at the Facility and found that the Facility was not in substantial compliance with the 2011 MEMSGP. MEDEP informed Respondent that “the SWPPP was not being properly implemented” and that “the SWPPP needs major revisions, and corrective actions.” MEDEP informed Respondent that “[d]ue to high turnover rate of environmental managers at this facility record keeping appeared to be an issue.” MEDEP also noted “numerous compliance issues with



respect to Industrial Stormwater” and noted that “this represents a severe liability for Maine Wood Treaters if EPA were to perform an inspection.”

42. On December 13, 2014, authorized representatives of EPA visited the Facility to review compliance with Federal and State environmental laws and regulations, including compliance with the 2011 MEMSGP (the “CWA Inspection”).

### III. EPCRA VIOLATIONS

#### **First Violation: Failure to Timely File TRI Form for Copper Compounds for Reporting Year 2010**

43. The foregoing paragraphs 1 through 42 are incorporated by reference as if fully set forth herein.

44. During the calendar year 2010, Respondent processed copper compounds, a toxic chemical category listed under 40 C.F.R. § 372.65, in a quantity exceeding the established threshold. Respondent was therefore required to submit to the Administrator of EPA a TRI Form for this chemical on or before July 1, 2011.

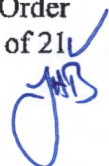
45. Respondent failed to submit this form to the Administrator of EPA on or before July 1, 2011.

46. Respondent’s failure to timely submit this form was in violation of Section 313 of EPCRA and 40 C.F.R. Part 372.

#### **Second Violation: Failure to Timely File TRI Form for Copper Compounds for Reporting Year 2011**

47. The foregoing paragraphs 1 through 46 are incorporated by reference as if fully set forth herein.

48. During the calendar year 2011, Respondent processed copper compounds, a toxic chemical category listed under 40 C.F.R. § 372.65, in a quantity exceeding the established



threshold. Respondent was therefore required to submit to the Administrator of EPA a TRI Form for this chemical on or before July 1, 2012.

49. Respondent failed to submit this form to the Administrator of EPA on or before July 1, 2012.

50. Respondent's failure to timely submit this form was in violation of Section 313 of EPCRA and 40 C.F.R. Part 372.

**Third Violation: Failure to Timely File TRI Form for Copper Compounds for Reporting Year 2013**

51. The foregoing paragraphs 1 through 50 are incorporated by reference as if fully set forth herein.

52. During the calendar year 2013, Respondent processed copper compounds, a toxic chemical category listed under 40 C.F.R. § 372.65, in a quantity exceeding the established threshold. Respondent was therefore required to submit to the Administrator of EPA a TRI Form for this chemical on or before July 1, 2014.

53. Respondent failed to submit this form to the Administrator of EPA on or before July 1, 2014.

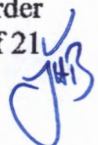
54. Respondent's failure to timely submit this form was in violation of Section 313 of EPCRA and 40 C.F.R. Part 372.

**IV. CWA VIOLATIONS**

**Fourth Violation: Failure to Comply with 2011 MEMSGP Terms and Conditions/Discharge of Stormwater Not in Compliance with 2011 MEMSGP**

55. The foregoing paragraphs 1 through 54 are incorporated by reference as if fully set forth herein.

56. Part V.C.2. of the 2011 MEMSGP requires that the permittee shall perform good



housekeeping procedures, and keep all exposed areas that are potential sources of pollution clean and orderly.

57. During the CWA Inspection, an EPA inspector observed waste product (damaged treated lumber) in unsorted piles in multiple locations, exposed to the environment, throughout the Facility. In addition, Respondent plowed snow containing debris from the Facility into wetlands bordering the Facility demonstrating poor housekeeping procedures. Therefore, Respondent was out of compliance in December 2014 with Part V.C.2. of the 2011 MEMSGP.

58. Part V.D.9.a. of the 2011 MEMSGP requires that the permittee describe the annual stormwater training program for the facility. Part V.J.5. of the 2011 MEMSGP requires that records of annual employee training, including the topics covered, training dates, and printed names and signatures of participating employees shall be maintained with the SWPPP.

59. Respondent failed to maintain records of annual stormwater training for 2011, 2012, and 2013 and was out of compliance with Part V.J.5 of the 2011 MEMSGP for each of those years.

60. Part V.E. of the 2011 MEMSGP requires that all BMPs identified in the SWPPP must be maintained in effective operating condition.

61. During the CWA Inspection, an EPA inspector observed that snow containing debris from the Facility had been plowed into the Facility's stormwater detention pond number 1, reducing the ability of the pond to effectively treat stormwater runoff and accumulating pollutants within the stormwater conveyance system. Therefore, Respondent was out of compliance in December 2014 with Part V.E. of the 2011 MEMSGP.

62. Part V.I. of the 2011 MEMSGP requires the completion of quarterly site inspections or Site Compliance Evaluations. The SWPPP must include procedures for conducting and

documenting the evaluations. Part V.J.7. requires that documentation of all inspections be maintained with the SWPPP.

63. Between April 25, 2011 and December 13, 2014 Respondent only documented one quarterly inspection or Site Compliance Evaluation (dated April 10, 2012). Therefore, Respondent failed to conduct and document, or at least failed to document quarterly site inspections or Site Compliance Evaluations for all but one quarter between April 25, 2011 and December 13, 2014 in violation of Parts V.I. and V.J.7. of the 2011 MEMSGP.

64. Part V.J.12 of the 2011 MEMSGP requires that documentation of the annual non-stormwater discharge certification be maintained with the SWPPP.

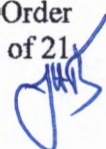
65. Between April 25, 2011 and December 13, 2014 Respondent failed to maintain an annual non-stormwater discharge certification with the SWPPP. Therefore, Respondent was out of compliance between April 25, 2011 and December 13, 2014 with Part V.J.12 of the 2011 MEMSGP.

66. Part VI. of the 2011 MEMSGP requires that the permittee conduct quarterly visual monitoring during qualifying storm events<sup>1</sup> as described in the 2011 MEMSGP. If no qualifying storm events occur, this must be documented in the SWPPP.

67. Respondent only conducted quarterly visual monitoring between April 25, 2011 and December 13, 2014 on one occasion (Q1 2012), and did not document the absence of qualifying storm events in its SWPPP for any of the other quarters. Therefore, Respondent failed to conduct quarterly visual monitoring or failed to document the absence of qualifying storm events

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<sup>1</sup> A qualifying storm event is either precipitation, ice or snow melt that produces a measurable discharge at an outfall that occurs at least 72 hours from a previous qualifying storm event. A grab sample must be collected within the first 60 minutes, but not more than 2.25 hours from the time stormwater began to discharge from an outfall. See Part VI.B.2 of 2011 MEMSGP.



in its SWPPP, on all but one occasion between April 25, 2011 and December 13, 2014 and was out of compliance with Part VI. of the 2011 MEMSGP.

68. Part VI.G. (and Appendix A, Part E) of the 2011 MEMSGP requires that benchmark monitoring for Total Suspended Solids ("TSS"), pH, arsenic, and copper must be conducted during a qualifying storm event as defined under the 2011 MEMSGP and that the permittee must collect a minimum of four quarterly samples until certain parameters are met.

69. Respondent failed to conduct quarterly benchmark sampling or failed to document that there were no qualifying storm events between April 25, 2011 and December 13, 2014. Therefore, Respondent was out of compliance with Part VI.G. of the 2011 MEMSGP from April 25, 2011 through December 13, 2014.

70. Section D.4 of Appendix A of the 2011 MEMSGP requires that the facility perform inspections of all processing areas, transport areas and treated wood storage areas on a monthly basis to assess the effectiveness of practices implemented to minimize the accumulation of treatment chemicals in soils on stormwater discharges.

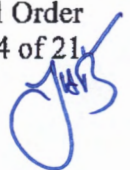
71. Respondent failed to conduct monthly inspections between September 2012 and February 2015 in violation of Appendix A of the 2011 MEMSGP.

72. From at least April 25, 2011 through February 2015, each of Respondent's violations of the 2011 MEMSGP is a separate and distinct violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a), for each day on which the violation occurred or continued. In addition, from at least April 25, 2011 through February 2015, each and every day on which Respondent discharged stormwater from the Facility in violation of the terms and conditions of the 2011 MEMSGP is a violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

## V. TERMS OF SETTLEMENT

*In re Maine Wood Treaters, Inc.*  
EPA Docket Nos.  
CWA 01-2016-0022, EPCRA 01-2016-0023

Consent Agreement and Final Order  
Page 14 of 21



73. Respondent certifies that it has corrected the alleged violations cited in Paragraphs 43 through 54 of this CAFO and agrees to operate the facility in compliance with Section 313 of EPCRA, 42 U.S.C. § 11023, and the regulations promulgated thereunder found at 40 C.F.R. Part 372.

74. Respondent certifies that it has corrected the alleged violations cited in Paragraphs 55 through 72 of this.

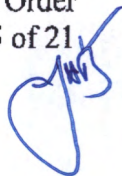
75. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in this CAFO and that this CAFO states a claim upon which relief may be granted against Respondent. Respondent hereby waives any defenses it might have as to jurisdiction and venue.

76. Respondent hereby waives its right to a judicial or administrative hearing on any issue of law or fact set forth in this CAFO and waives its right to appeal the Final Order.

77. Without admitting or denying the facts and violations alleged in this CAFO, Respondent consents to the terms and issuance of this CAFO and agrees to the payment of the civil penalty set forth herein.

78. Pursuant to the relevant factors for penalties issued pursuant to Section 325(c)(1) of EPCRA, 42 U.S.C. § 11045(c)(1), and Section 309(g)(3) of the CWA, 33 U.S.C. § 1319(g)(3), and taking into account any such matters as justice may require, including Respondent's ability to pay the civil penalty, EPA has determined that it is fair and proper that Respondent pay a total civil penalty in the amount of \$15,000 to resolve the violations alleged in this matter.

79. Respondent shall pay the total penalty amount of \$15,000 for the violations of EPCRA and the CWA set forth herein in installments according to the payment schedule identified in paragraph 80. Interest at the rate of four percent (4%) per annum shall be included in any and all payments made more than ten (10) days after the date this CAFO becomes final,





and shall accrue from ten (10) days after the date this CAFO becomes final until the date of payment.

80. Respondent shall pay the total penalty amount of \$15,000 plus interest according to the following schedule:

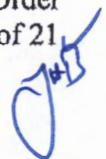
- a. Payment of \$5,000 shall be made within ten (10) calendar days of the date this CAFO is final;
- b. Payment of \$5,167 (\$5,000 principal for the alleged EPCRA and CWA violations plus \$167 accrued interest) shall be made within 165 calendar days after this CAFO becomes final; and
- c. Payment of \$5,100 (includes \$5,000 principal for the alleged EPCRA and CWA violations plus \$100 accrued interest) shall be made within 360 calendar days after this CAFO becomes final.

81. Respondent may accelerate its payments described in the payment schedule in paragraph 80, and thereby reduce its interest payments. If Respondent chooses to accelerate its payments, Respondent will notify EPA in writing of the decision to do so in advance and inform EPA of a proposed date for each accelerated payment. Based on the date of each proposed accelerated payment, EPA will inform Respondent of the revised payment amount, including interest calculated as described in paragraph 79 above.

82. For each payment due under this CAFO, Respondent shall submit a company, bank, cashier's, or certified check, payable to the order of the "Treasurer, United States of America," referencing the case name and docket number ("*In re The Maine Wood Treaters, Inc.*, Docket Nos. CWA-01-2016-0022; EPCRA-01-2016-0023") on the face of the check or wire transfer confirmation. The check should be sent to:

*In re Maine Wood Treaters, Inc.*  
EPA Docket Nos.  
CWA 01-2016-0022, EPCRA 01-2016-0023

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

Or, Respondent may make payment by electronic funds transfer via:

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:  
"D 68010727 Environmental Protection Agency"

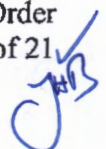
83. In addition, at the time of payment, Respondent shall simultaneously send notice of the payment and a copy of the check or electronic wire transfer confirmation to:

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

Cynthia Catri  
Senior Enforcement Counsel  
U.S. Environmental Protection Agency, Region 1  
5 Post Office Square, Suite 100  
Mail Code OES 04-2  
Boston, MA 02109-3912

84. If Respondent fails to make any payment required by paragraph 80 by the required due date, the total penalty amount of \$15,000, plus all accrued interest (less payments already made), shall become due immediately to the United States upon such failure. Then, interest as calculated under paragraph 86 shall continue to accrue on any unpaid amounts until the total



amount due has been received by the United States. Respondent shall be liable for such amount regardless of whether EPA has notified Respondent of its failure to pay or made a demand for payment. All payments to the United States under this paragraph shall be made by company, bank, cashier's, or certified check, or by electronic fund transfer as described in paragraph 82.

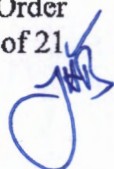
85. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim.

86. In the event that any portion of the civil penalty relating to the alleged EPCRA or CWA violations is not paid when due without demand, the penalty plus accrued interest<sup>2</sup> shall be payable 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 attorneys' fees. In addition, a penalty charge of six percent per year, compounded annually, will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. However, should assessment of the penalty charge on the debt be required, it will be assessed as of the first day payment becomes due in accordance with 31 C.F.R. § 901.9(d).

87. The civil penalty under this CAFO and any interest, nonpayment penalties, and other charges described herein shall represent penalties assessed by EPA, and shall not be deductible for purposes of federal, state, or local taxes. 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,

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<sup>2</sup> If Respondent misses a penalty installment payment, the entire penalty becomes accelerated and due, in accordance with paragraph 84. Thus, the interest rates referred to in this paragraph is not the interest rates used to calculate the installments payments, but rather the interest rates that will apply if Respondent fails to pay the entire accelerated penalty.



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.

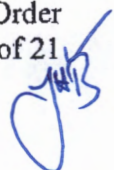
88. The provisions of this CAFO shall be binding upon Respondent and Respondent's officers, directors, agents, servants, employees, and successors or assigns.

89. Respondent shall bear its own costs and attorneys' fees in this proceeding and specifically waive any right to recover such costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504, or other applicable laws.

90. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 325(c) of EPCRA, 42 U.S.C. §11045(c), and Section 309(g) of the CWA, 33 U.S.C. § 1319(g), for the violations specifically alleged in this CAFO. Compliance with this CAFO shall not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with such laws and regulations.

91. 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. Nothing in this CAFO shall be construed to limit 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.

92. Nothing in this CAFO shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions if Respondent violates this CAFO or continues to violate the statutes and regulations upon which the allegations in this CAFO are based, or for Respondent's violation of any other applicable provision of federal,

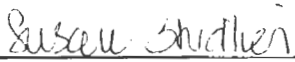


state, or local law.

93. The undersigned representative of the Respondent certifies that he or she is fully authorized by the party responsible to enter into the terms and conditions of this CAFO and to execute and legally bind that party to it.

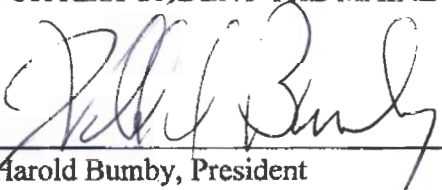
94. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of EPA and the Respondent, and approval of a Regional Judicial Officer.

FOR U.S. ENVIRONMENTAL PROTECTION AGENCY:

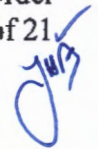
  
\_\_\_\_\_  
Susan Studlien, Director  
Office of Environmental Stewardship  
U.S. Environmental Protection Agency, Region 1

Date: 07/11/2016

FOR RESPONDENT THE MAINE WOOD TREATERS, INC.:

  
\_\_\_\_\_  
Harold Bumby, President  
The Maine Wood Treaters, Inc.

Date: 6/8/16

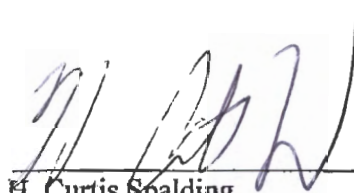


**FINAL ORDER**

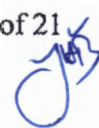
The forgoing consent agreement is hereby approved and incorporated by reference into this Order. The Respondent is hereby ordered to comply with the terms of the above Consent Agreement. Under the Part 22 Rules, although the EPCRA requirements of this Order could become effective on the date of filing with the Regional Hearing Clerk, for ease of administration, all aspects of this Order will become final ("the final date") 30 days from the date it is signed by the Regional Administrator.

Date:

7/11/16



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



IN THE MATTER OF: *Maine Wood Treaters, Inc.*, Docket Nos. CWA-01-2016-0022,  
EPCRA-01-2016-0023

**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 Santiago  
Regional Hearing Clerk  
U.S. EPA, Region I (ORA18-1)  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912

Copy, by Certified Mail,  
Return Receipt Requested

Harold Bumby, President,  
The Maine Wood Treaters, Inc.  
58 Walker Road  
Mechanic Falls, ME 04256

Dated: July 12, 2016

Cynthia Catri  
Cynthia Catri  
Senior Enforcement Counsel  
U.S. Environmental Protection Agency, Region 1  
5 Post Office Square, Suite 100 (OES04-2)  
Boston, MA 02109-3912  
Tel (617) 918-1888  
Fax (617) 918-0888