

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Rivera for Steven J. Viggiani 9/30/08
Name of Case Attorney Date

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

Case Docket Number CAA-01-2008-0103

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:

Material Installations, Inc.
11 Bayfield Drive
North Andover, MA 01845

Total Dollar Amount of Receivable \$ 34,692 Due Date: 10/29/08

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**

IN THE MATTER OF:)	Docket No. CAA-01-2008-0103
)	
Material Installations, Inc.)	
11 Bayfield Drive)	CONSENT AGREEMENT AND
North Andover, Massachusetts 01845)	FINAL ORDER
)	
Proceeding under Section 113(d) of)	
the Clean Air Act)	

I. STATUTORY AUTHORITY

1. This is a Consent Agreement and Final Order ("CAFO") to resolve alleged violations of federally-enforceable state regulations implementing the Clean Air Act ("CAA"), 42 U.S.C. §§ 7401-7671. This CAFO is issued under the authority granted to the United States Environmental Protection Agency, Region 1 ("EPA" or "Complainant") by Section 113(d) of the CAA, 42 U.S.C. § 7413(d). Pursuant to 40 Code of Federal Regulations ("C.F.R.") § 22.13(b), this CAFO is being issued without an accompanying administrative complaint.

II. BACKGROUND

2. Material Installations, Inc. ("Material Installations" or "Respondent") is a Massachusetts corporation that installs modular furniture with a fleet of two trailers, six trucks, and a number of vans. Material Installations' principal place of business is located at 11 Bayfield Drive in North Andover, Massachusetts ("North Andover facility").

3. Based on EPA's independent review of videotapes supplied by a local resident, EPA determined that Material Installations violated a federally-enforceable vehicle idling regulation by allowing various trucks to idle excessively at the North Andover facility's loading dock and parking lot.

4. As required by Section 113(a)(1) of the CAA, 42 U.S.C. § 7413(a)(1), EPA provided notice of these idling violations to the company and to state environmental authorities in July 2007.

III. GENERAL TERMS

5. The terms of this CAFO shall apply to and be binding on EPA and on Respondent, its officers, directors, successors and assigns.

6. Respondent admits that Complainant has jurisdiction over the subject matter described in this CAFO and that the CAFO states claims upon which relief can be granted against Respondent. Respondent waives any defenses it might have as to jurisdiction and venue, and waives its right to a judicial or administrative hearing or appeal on any issue of law or fact set forth in this CAFO. Respondent neither admits nor denies the factual allegations and legal conclusions contained in Section IV below.

7. Respondent consents to the terms and issuance of this CAFO, including the payment of the civil penalty as set forth in Section VI below. Respondent waives any right to appeal any portion of the CAFO.

IV. CAA VIOLATIONS

8. The Commonwealth of Massachusetts has adopted a CAA state implementation plan ("SIP") within the meaning of Section 113(a)(1) of the CAA. The Massachusetts SIP, approved by EPA under Section 110 of the CAA, 42 U.S.C. § 7410, includes various federally enforceable portions of the Massachusetts Air Pollution Control Regulations at 310 Code of Massachusetts Regulations ("CMR") 7.00 et seq.

9. At all times relevant to this CAFO, the Massachusetts SIP has included a regulation at 310 CMR § 7.11(1)(b) (the "Massachusetts idling regulation"), which provides that no person shall cause, suffer, allow or permit the unnecessary operation of the engine of a motor vehicle while such vehicle is stopped for a foreseeable period in excess of five minutes, unless such operation is in accordance with a listed exception.

10. At all times relevant to this CAFO, Material Installations has been subject to the federally-enforceable Massachusetts idling regulation.

11. EPA has determined that various trucks belonging to Material Installations and other companies have idled at the North Andover facility in excess of five minutes, and not in accordance with any of the Massachusetts idling regulation's listed exceptions. Therefore, Material Installations has violated the Massachusetts idling regulation. The specific idling violations are listed in the CAFO's Appendix.

V. COMPLIANCE CERTIFICATION

12. Respondent certifies that Material Installations is currently in compliance with the Massachusetts idling regulation

VI. CIVIL PENALTIES

13. Respondent shall pay a civil penalty totaling \$ 34,692.

Complainant has determined that this is an appropriate settlement penalty based on the nature of the alleged violations, the size of Respondent's business, and other relevant factors.

14. To pay the CAA penalty, Respondent shall submit, no later than thirty (30) days after the effective date of this CAFO, a cashier's or certified check in the amount of \$ 34,692, payable to the order of the "Treasurer, United States of America," and referencing the title of this action and the CAA case docket number (CAA-01-2008-0103). The check shall be sent via regular mail to the following address:

U.S. Environmental Protection Agency
Region I
P.O. Box 360197 M
Pittsburgh, PA 15251.

If Respondent sends the check via express mail, the following address shall be used:

U.S. EPA, Region I -- No. 360197
Mellon Client Service Center Room 670
500 Ross Street
Pittsburgh, PA 15262-0001.

15. Respondent shall send a notice of its penalty payment, including a copy of the check, to:

Wanda I. Santiago
Regional Hearing Clerk
U.S. EPA, Region I
Suite 1100 (Mailcode RAA)
One Congress Street
Boston, MA 02114-2023

and

Steven J. Viggiani
Senior Enforcement Counsel
U.S. EPA, Region I
Suite 1100 (Mailcode SEL)
One Congress Street
Boston, MA 02114-2023.

16. If Respondent fails to pay the full amount of the CAA penalty by its due date, Respondent shall pay interest on the late amount, a quarterly nonpayment penalty, and any governmental enforcement expenses incurred to collect the late payment, all in accordance with Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5).

17. Respondent certifies that it shall not use any payments made pursuant to this Section in any way as, or in furtherance of, a tax deduction under federal, state or local law. Respondent specifically waives any confidentiality rights it has with respect to such payments on its federal tax returns and return information under 26 U.S.C. § 6103, and on any of its state or local tax returns, as to Complainant and the United States for the purpose of ensuring the accuracy of this certification.

VII. EFFECT OF SETTLEMENT

18. This CAFO constitutes a settlement by Complainant of all claims for civil penalties under Section 113 of the CAA for the violations set out in Section IV above.

19. Nothing in this CAFO shall be construed to limit the authority of Complainant or the United States to undertake any action against Respondent for criminal activity, or to respond to conditions that may present an imminent and substantial endangerment to the public health, welfare or the environment.

Complainant reserves all rights and remedies available to it to enforce the provisions of this CAFO, the CAA and its implementing regulations, and any other federal, state or local law or regulation.

20. This CAFO shall not relieve Respondent of its obligations to comply with all applicable provisions of federal or state law, and shall not be construed to be a ruling or determination regarding any issue related to any federal, state or local permit. Except as provided in Paragraph 18 above, compliance with this CAFO shall not be a defense to any action subsequently commenced pursuant to environmental laws and regulations administered by EPA or by Massachusetts environmental authorities.

21. Each party shall bear its own costs, disbursements and attorneys fees in connection with this enforcement action, 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.

22. Respondent's undersigned representative certifies that he or she is fully authorized by Respondent to enter into the terms and conditions of this Consent Agreement and to execute and legally bind Respondent to it.

For Complainant:

For Respondent:

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

Date: 09/26/08

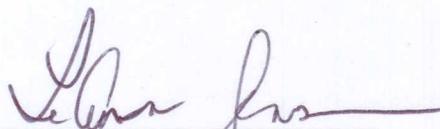
Michael Farrow
Michael Farrow, CEO
Material Installations, Inc.

Date: 9/22/08

FINAL ORDER

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. Respondent is hereby ordered to comply with the terms of this CAFO, which shall become effective immediately upon signature by the Regional Judicial Officer.

SO SIGNED AND ISSUED:



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

Date: 9-29-08

Appendix: Material Installations Violations

<u>Date</u>	<u>Minutes of Violation</u>
2/16/07	26
2/14/07	6 *
2/14/07	20
2/13/07	61
1/17/07	18
12/14/06	7
9/14/06	11
8/28/06	47
6/27/06	18
3/24/05	69
3/16/05	13 *
3/9/05	13
3/7/05	7
3/3/05	11 *
2/26/05	10 *
2/25/05	27 *
2/11/05	6 *
2/2/05	8 *
2/1/05	14
TOTAL	392 minutes

* denotes Material Installations vehicles