

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for John Hultgren 2/14/13
Name of Case Attorney Date

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

Case Docket Number FIFRA-01-2012-0083

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:

Wash Safe Industries, Inc.
400 Tubman Road
Brewster, MA 02631

Total Dollar Amount of Receivable \$ 10,000 Due Date: 9/12/13

SEP due? Yes No Date Due _____

Installment Method (if applicable)

INSTALLMENTS OF:

- 1st \$ 5,000 on 3/16/13
- 2nd \$ 5,075 on 9/12/13
- 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 I - New England
5 Post Office Square - Suite 100
Boston, Massachusetts 02109-3912

RECEIVED
2013 FEB 14 A 10:58

EPA ORC
OFFICE OF
REGIONAL HEARING CLERK
WS

BY HAND

FEB 14 2013

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

Re: In the Matter of Wash Safe Industries, Inc., Docket No: FIFRA-01-2012-0083

Dear Ms. Santiago:

Enclosed for filing in the referenced action, please find the original and one copy of a Consent Agreement and Final Order, which resolves the referenced action for alleged violations of the Federal Insecticide, Fungicide, and Rodenticide Act.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to be "John Hultgren".

John Hultgren
Enforcement Counsel

Enclosures

ecc: Donald Nagle, Esq.
Marianne Milette, EPA

RECEIVED
FEB 14 10 58

FEB 14 2013

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I**

)	
)	
In the Matter of:)	Docket Number
)	FIFRA-01-2012-0083
)	
WASH SAFE INDUSTRIES, INC.)	CERTIFICATE OF SERVICE
400 Tubman Road)	
Brewster, MA 02631,)	
)	
Respondent)	
)	

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

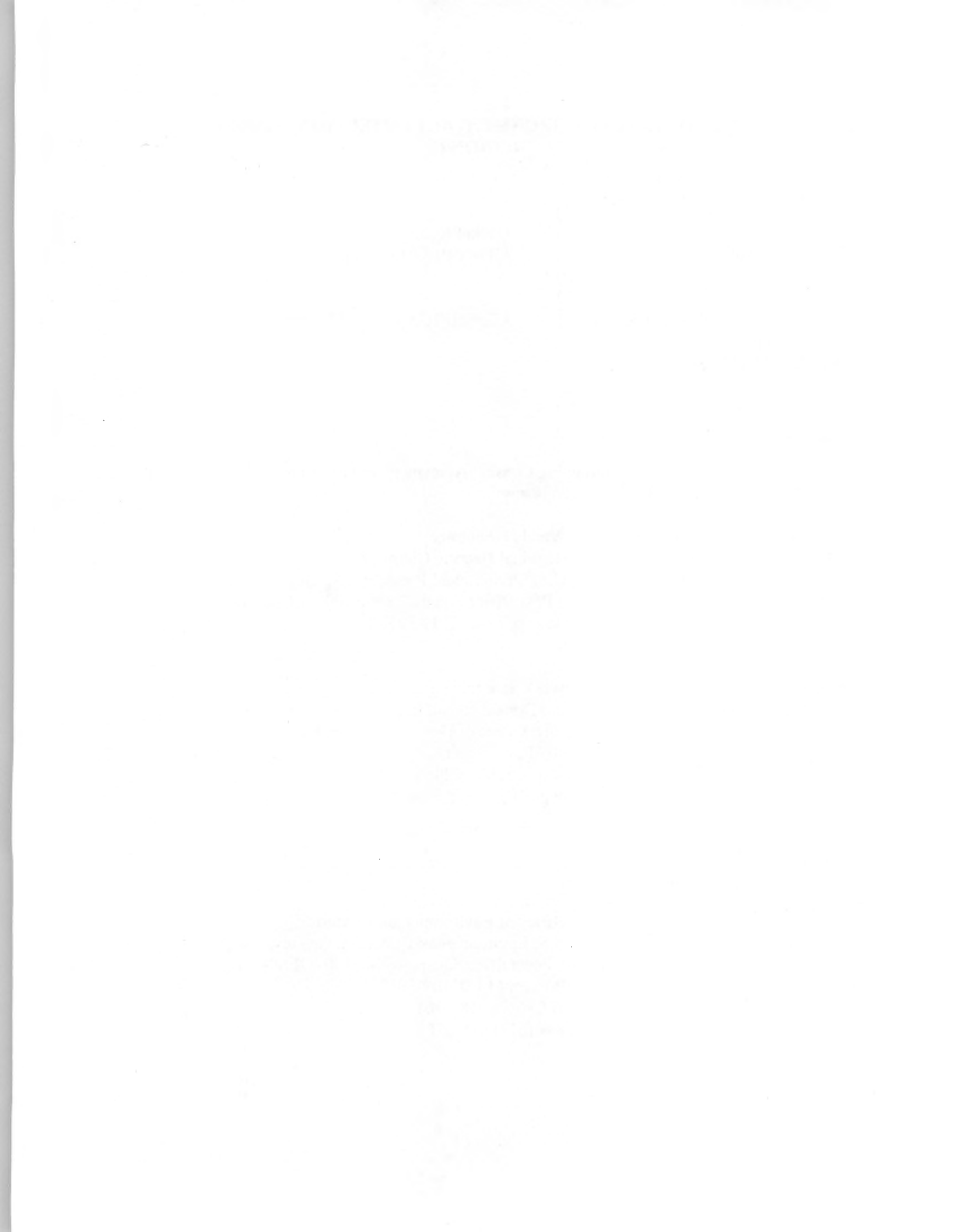
Original and One Copy (Hand-Delivered):	Wanda I. Santiago Regional Hearing Clerk U.S. Environment Protection Agency, Region I 5 Post Office Square - Suite 100 (ORA18-1) Boston, MA 02109-3912
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Copy, including (Certified Mail and Email)	Wash Safe Industries, Inc. c/o Donald Nagle, Esq. Law Office of Donald P. Nagle, PC 207 Front Street Scituate, MA 02066 nagle@dpnaglelaw.com
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Dated: 2/14/13



John Hultgren
Enforcement Counsel
Office of Environmental Stewardship
U.S. Environmental Protection Agency – Region I
5 Post Office Square - Suite 100 (OES04-2)
Boston, MA 02109-3912
Tel. (617) 918-1761
Fax (617) 918-0761



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I

RECEIVED

2013 FEB 14 A 10:51

EPA ORC
OFFICE OF
REGIONAL HEARING CLERK

In the Matter of:)

WASH SAFE INDUSTRIES, INC.)
400 Tubman Road)
Brewster, MA 02631,)

Respondent.)
_____)

Docket Number
FIFRA-01-2012-0083

**CONSENT AGREEMENT AND
FINAL ORDER**

INTRODUCTION

1. The United States Environmental Protection Agency Region I (“EPA”) as Complainant, and Wash Safe Industries, Inc. (“Wash Safe” or “Respondent”), as Respondent, enter into this Consent Agreement and Final Order (“CAFO”) by mutual consent.

2. Complainant and Respondent (collectively, the “Parties”) agree that settlement of this matter is in the public interest and that entry of this CAFO without further litigation is the most appropriate means of resolving this matter.

3. Therefore, before any hearing or the taking of any testimony, without adjudication of any issue of fact or law herein, the Parties agree to comply with the terms of this CAFO.

PRELIMINARY STATEMENT

4. On September 24, 2012, EPA filed a Complaint and initiated this proceeding for the assessment of a civil penalty pursuant to Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (“FIFRA”), as amended, 7 U.S.C. § 136l(a).

5. The Complaint alleges that Respondent distributed or sold twelve different unregistered pesticides products between November 1, 2010 and July 17, 2011, in violation of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), and regulations promulgated pursuant

to FIFRA at 40 C.F.R. Parts 150-189.

6. The Complaint also alleged that Respondent produced pesticides subject to FIFRA at an unregistered establishment in violation of Section 12(a)(2)(L), 7 U.S.C. § 136j(a)(2)(L), and regulations promulgated pursuant to FIFRA at 40 C.F.R. Parts 150-189.

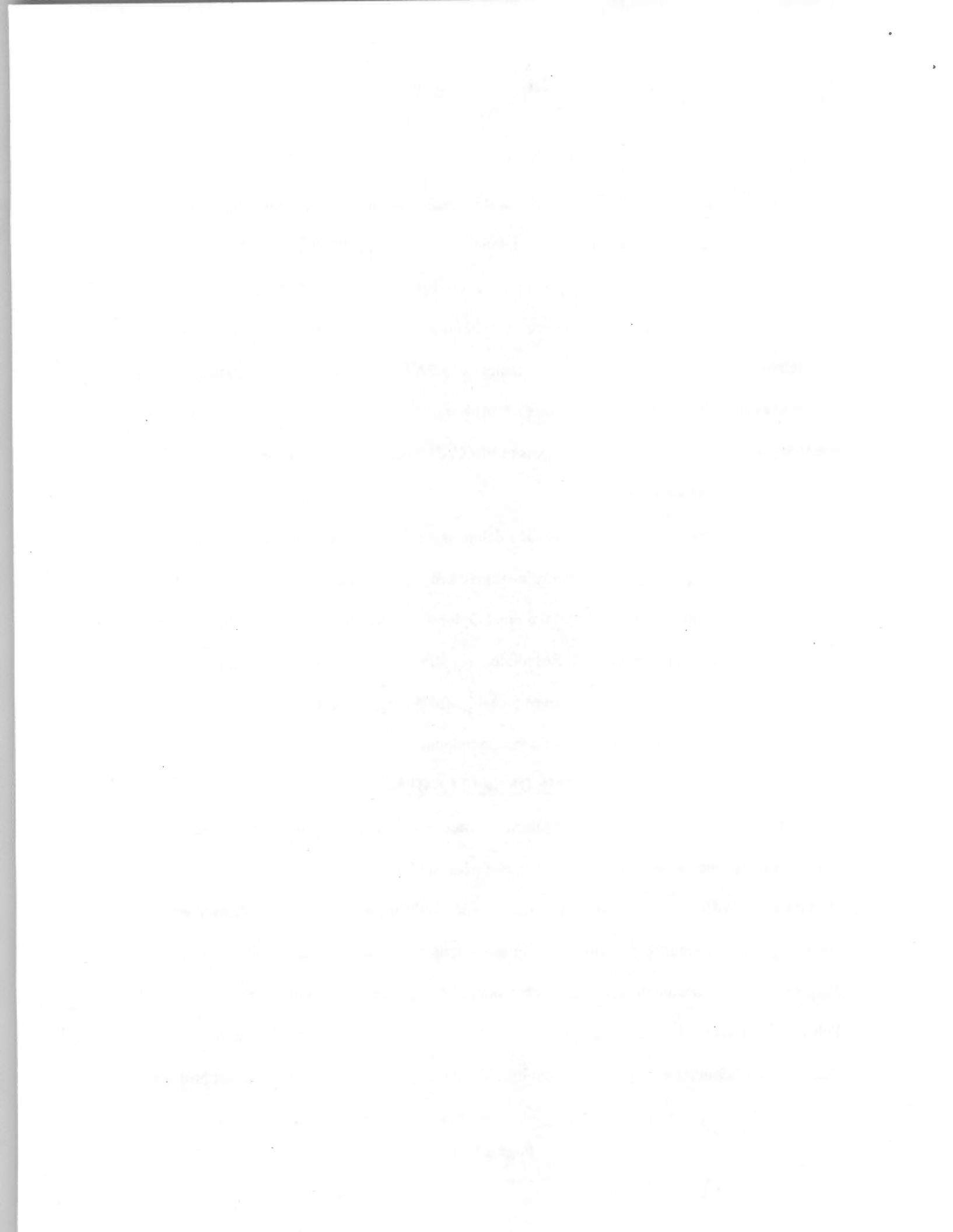
7. For purposes of this proceeding, without trial or litigation of the issues or any adjudication of the facts, Respondent: (1) admits that EPA has jurisdiction over the subject matter alleged in the Complaint, (2) neither admits nor denies the factual allegations contained in the Complaint, and (3) consents to the terms of this CAFO as a settlement of the allegations raised by EPA in the Complaint.

8. Respondent hereby waives any defenses it might have as to jurisdiction and venue, its right to request a judicial or administrative hearing on any issue of law or fact set forth in the Complaint, and its right to appeal the Final Order accompanying the Consent Agreement.

9. By signing this CAFO, Respondent certifies that it is presently operating in compliance with FIFRA and the regulations promulgated thereunder and that it has fully addressed the violations alleged by EPA in the Complaint.

TERMS OF SETTLEMENT

10. In light of the above, and taking into account the factors enumerated in Section 14(a) of FIFRA, the December 2009 "FIFRA Enforcement Response Policy" issued by the Waste and Chemical Enforcement Division, Office of Civil Enforcement, Office of Enforcement and Compliance Assurance, the Monetary Penalty Inflation Adjustment Rules at 40 C.F.R. Part 19, promulgated in accordance with the Debt Collection Improvement Act of 1996 ("DCIA"), Pub. L. No. 104-134, 110 Stat. 1321 (1996), and other factors as justice may require, including Respondent's financial ability to pay a penalty, EPA has determined that it is fair and appropriate



that Respondent pay a civil penalty in the amount of \$10,000 in settlement of the violations alleged in the Complaint.

11. Respondent shall pay the penalty in two installments with the first installment of \$5,000 to be paid within thirty (30) days of the effective date of this CAFO.

12. Respondent shall pay the second installment payment of \$5,075 within two hundred and ten (210) days of the effective date of this CAFO. The second payment of \$5,075 includes \$75 in interest, which is calculated at a rate of three percent per annum.

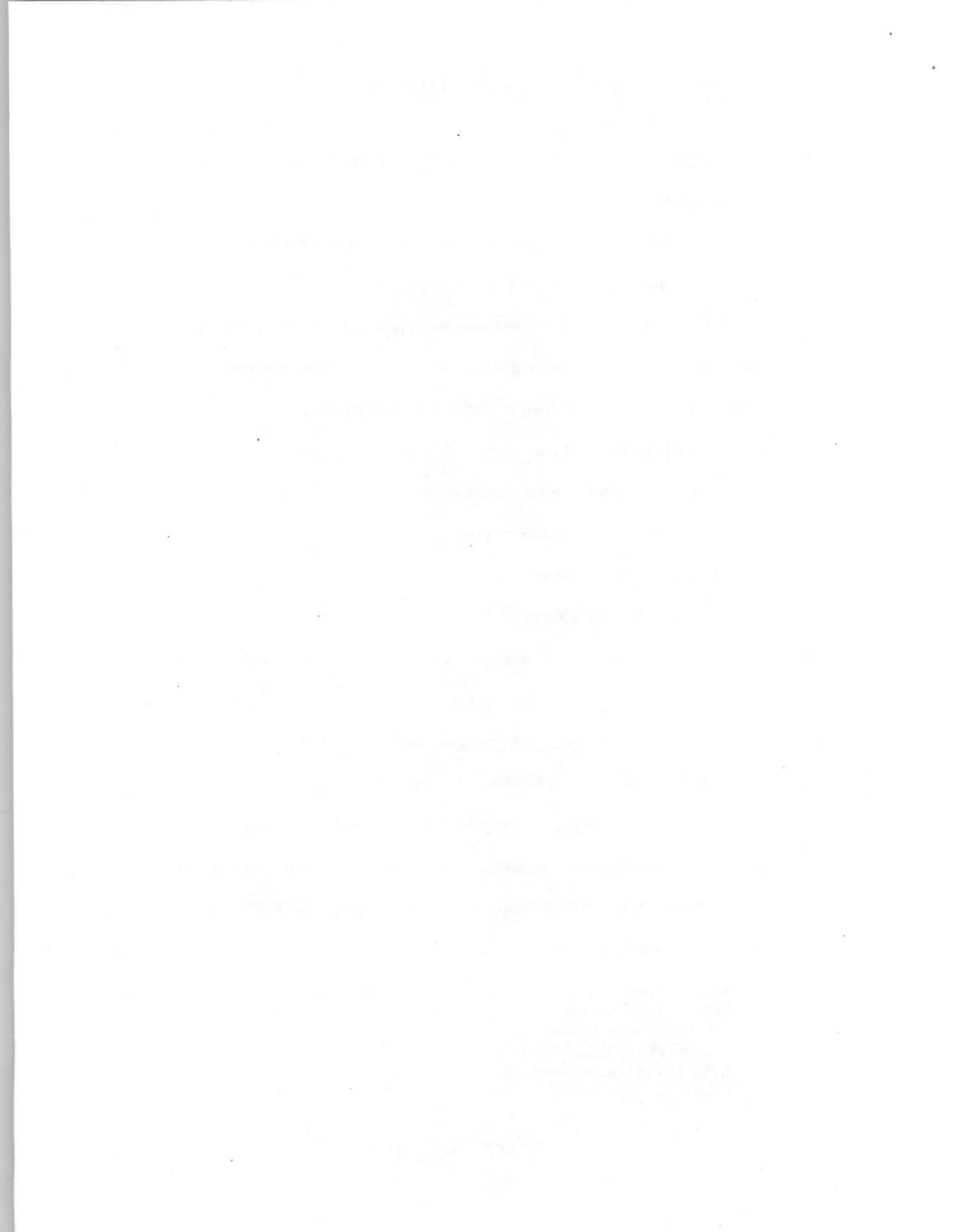
13. Respondent shall make each payment by submitting a bank or certified check, to the order of the "Treasurer, United States of America" to:

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

Respondent may alternatively make each payment by debit or credit card by completing and submitting the U.S. Environmental Protection Agency Miscellaneous Payment Form (SFO Form Number 1.1), available at <https://www.pay.gov/paygov/>. Respondent shall include the case name and docket number (i.e., *In the matter of Wash Safe Industries, Inc.*, FIFRA-01-2012-0083) on the face of the check or on the Miscellaneous Payment Form (i.e., SFO Form Number 1.1).

14. At the time of payment, Respondent shall provide copies of the check, the U.S. Environmental Protection Agency Miscellaneous Payment Form (SFO Form Number 1.1), and/or the electronic payment receipt to:

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



and

John E. Hultgren, Enforcement Counsel
U.S. Environmental Protection Agency
Region I (Mail Code: OES04-2)
5 Post Office Square, Suite 100
Boston, MA 02109-3912

15. If Respondent fails to pay the civil penalty, it will be subject to an action to compel payment, plus interest, enforcement expenses and a nonpayment penalty. Pursuant to 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 therefore begin to accrue on the civil penalty (or any portion thereof) on the date it is due under this CAFO if such penalty (or portion thereof) is not paid in full by such due date. 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). In addition, a penalty charge of six percent (6%) per year and an amount to cover the costs of collection will be assessed on any portion of the debt that remains delinquent more than ninety (90) days after payment is due. 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).

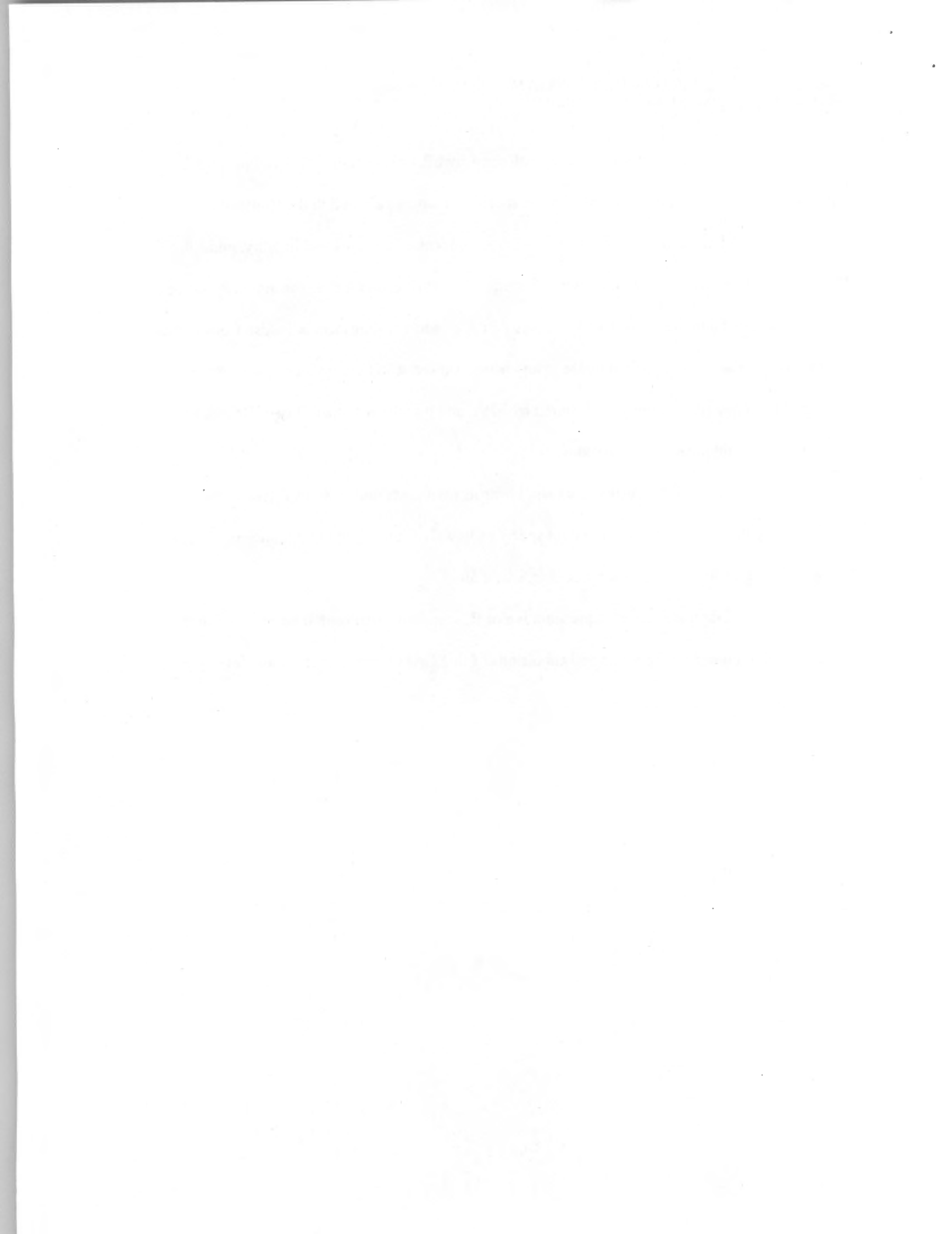
16. The civil penalty due and any interest, non-payment penalties, or charges that arise pursuant to this CAFO shall represent penalties assessed by EPA and shall not be deductible for the purposes of Federal taxes. Accordingly, Respondent agrees to treat all payments made pursuant to this CAFO as penalties within the meaning of Internal Revenue Service regulations, including 26 C.F.R. § 1.162-21, 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.

17. This CAFO constitutes a settlement by EPA of all claims for civil penalties, pursuant to Section 14(a) of FIFRA, for the specific violations alleged in the Complaint.

18. This CAFO in no way relieves Respondent 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 take any action to address imminent hazards. Compliance with this CAFO shall not be a defense to any action subsequently commenced pursuant to Federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with said laws and regulations.

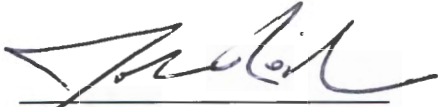
19. Each of the Parties each shall bear its own costs and attorneys' fees in the action resolved by this CAFO, and Respondent specifically waives any right to seek attorneys' fees under the Equal Access to Justice Act, 5 U.S.C. § 504.

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



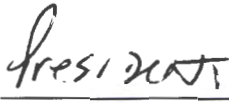
In the Matter of Wash Safe Industries, Inc., Docket No.: FIFRA-01-2012-0083
CONSENT AGREEMENT AND FINAL ORDER

For Respondent:

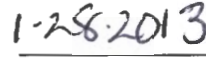


(Name)

Wash Safe Industries, Inc.
400 Tubman Road
Brewster, MA 02631



(Title)



(Date)

For EPA Region I:



Joanna B. Jerison
Legal Enforcement Manager
Office of Environmental Stewardship
U.S. EPA, Region I

2/11/13
(Date)

and:



John E. Hultgren
Enforcement Counsel
Office of Environmental Stewardship
U.S. EPA, Region I

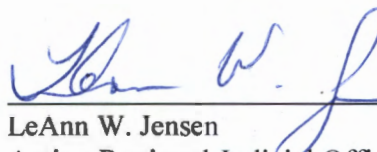
JANUARY 29, 2013
(Date)



FINAL ORDER

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Order. Respondent, Wash Safe Industries, Inc., is hereby ordered to comply with the terms of the above Consent Agreement, which will become effective on the date it is filed with the Regional Hearing Clerk.

2/12/13
(Date)



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

