

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 ARCH STREET  
PHILADELPHIA, PA 19103-2029

EXPEDITED PENALTY ACTION  
AND CONSENT AGREEMENT  
DOCKET NO. [CWA-03-2011-0193]

**RESPONDENT**  
R. Gene McGuire  
2009 Williamson Road  
Roanoke, VA 24012

**FACILITY**  
Oak Ridge Toyota  
3000 Wards Road  
Lynchburg, VA 24502

On October 25, 2010 an authorized representative of the United States Environmental Protection Agency (EPA) conducted an inspection of Respondent's facility known as Oak Ridge Toyota at 3000 Wards Road in Lynchburg, Virginia to determine compliance with the Oil Pollution Prevention regulations promulgated at 40 CFR Part 112 under Section 311(j) of the Clean Water Act, as amended, (33 U.S.C. §1321(j)), (the "Act"). The EPA representative found that Respondent had violated the regulations by failing to comply with the specific regulatory requirements noted on the attached OIL POLLUTION PREVENTION INSPECTION FINDINGS, ALLEGED VIOLATIONS AND PROPOSED PENALTY FORM (the "Form"), which is hereby incorporated by reference.

The parties enter into this Expedited Penalty Action to settle the civil violations set forth above for a penalty of **\$1,500.00**. This Expedited Penalty Action commences and concludes this action pursuant to Sections 22.13(b), and 22.18(b)(2), and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 CFR §§ 22.13(b), and 22.18(b)(2), and (3). This Expedited Penalty Action and Consent Agreement is being entered into by the United States Environmental Protection Agency, Region III ("EPA"), by its duly delegated official, the Director, Hazardous Site Cleanup Division, and by Respondent pursuant to Section 311(b)(6)(B)(i) of the Act, 33 U.S.C. §1321(b)(6)(B)(i), and by 40 CFR § 22.13(b).

The settlement is subject to the following terms and conditions.

EPA hereby finds the Respondent is subject to the Oil Pollution Prevention regulations and has violated the regulations as further described in the Form.

The Respondent consents to the assessment of the penalty stated above. The settlement amount was based upon Complainant's consideration of a number of factors, including, but not limited to, the seriousness of the violations and the other factors provided in CWA Section 1321(b)(8) and EPA's Civil Penalty Policy for CWA Sections 311(b)(3) and 311(j) dated August 1998. Respondent certifies, subject to civil and criminal penalties for making a false statement to the United States Government, that the violations set forth in the Oil Pollution Prevention Inspection Findings, Alleged Violations and Proposed Penalty Form have been corrected. The Respondent agrees that it shall, within 15 calendar days of receipt of an executed copy of this Expedited Penalty Action, make payment of **\$1,500.00** in one of two forms: 1) electronic funds transfer ("EFT") or 2) a cashier's check or certified check payable to the "Environmental Protection Agency", with the Docket Number, located at the top right-hand corner of the Expedited Penalty Action, and "Oil Spill Liability Trust Fund - 311" referenced on the check.

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Account 68010727  
SWIFT address FRNYUS33  
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Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"

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The payment made pursuant to this Expedited Penalty Action is a penalty within the meaning of Section 162(f) of the Internal Revenue Code, 26 U.S.C. §162(f), and, therefore, Respondent shall not claim it as a tax deductible expenditure for purposes of federal, state or local law.

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If Respondent does not sign and return this Expedited Settlement as presented within 30 days of the date of its receipt, the proposed Expedited Settlement is withdrawn without prejudice to EPA's ability to file any other enforcement action for the violations identified in the Form.

**ACCEPT THE PROPOSED PENALTY**

I/we consent to the proposed penalty.

**DECLINE THE PROPOSED PENALTY**

I/we decline the proposed penalty. If you choose to decline this proposed penalty, you may be subject to formal enforcement action and, in that event, will have an opportunity to a hearing related to any subsequent penalty assessment.

**COST OF COMPLIANCE**

Respondent certifies that it has expended \$ 7,335.30 to correct the alleged violations and to come into compliance.

**EFFECTIVE DATE**

This Expedited Penalty Action will be effective upon filing.

The undersigned representative of Respondent certifies that he or she is fully authorized by Respondent to execute this Expedited Penalty Action and Consent Agreement and to legally bind the party whom he or she represents thereto.

Respondent Berglund Oakridge Toyota  
Signature by R G McGuire Date 6-9-11

Name and Title (print)  
BERGLUND OAKRIDGE TOYOTA  
RG MCGUIRE, VICE PRESIDENT

**SIGNATURE BY COMPLAINANT:**

Ronald J. Borsellino Date 7/5/11  
Ronald J. Borsellino, Director  
Hazardous Site Cleanup Division

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Signature by R G McGuire Date 6-9-11

Name and Title (print)  
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**SIGNATURE BY COMPLAINANT:**

Ronald J. Borsellino Date 7/5/11  
Ronald J. Borsellino, Director  
Hazardous Site Cleanup Division

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Signature by R G McGuire Date 6-9-11

Name and Title (print)  
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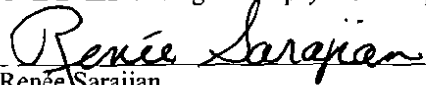
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Hazardous Site Cleanup Division



FINAL ORDER

Pursuant to Section 311(b)(6) of the CWA, 33 U.S.C. §1321(b)(6), and in accordance with the Consolidated Rules of Practice, 40 CFR Part 22, and having relied upon the representations of the parties set forth in the Consent Agreement, I have determined that the penalty assessed herein is based on a consideration of the factors set forth in CWA Section 1321(b)(8) and EPA's Civil Penalty Policy for CWA Sections 311(b)(3) and 311(j) dated August 1998.

THEREFORE, the foregoing Consent Agreement is hereby approved and incorporated by reference into the Final Order. The Respondent is ORDERED and agrees to pay the civil penalty set forth above.

  
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Renee Sarajian,  
Regional Judicial Officer

Date 7/19/11