



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

SEP 03 2013

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Shriners Hospitals for Children
ATTN: Vice President, Legal
P.O. Box 31356
Tampa, FL 33631-3356

RE: Shriners Hospitals for Children
Consent Agreement and Final Order (CA/FO)
Docket No. CWA-04-2013-7001(b)

Dear Ms. Spieler:

Enclosed is a copy of the executed CA/FO as filed with the Regional Hearing Clerk (RHC) in the above-referenced matter. The CA/FO is effective on the date it is filed with the RHC, and the penalty due date is calculated from the effective date.

Also enclosed is a document entitled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts Shriners Hospitals for Children on notice of its potential duty to disclose to the Securities Exchange Commission any environmental actions taken by the United States Environmental Protection Agency.

If you have any questions, please feel free to contact me at (404)562-8530 or buso.roberto@epa.gov.

Sincerely,

A handwritten signature in green ink, appearing to read "R. Busó".

Roberto X. Busó
Associate Regional Counsel
Office of Environmental Accountability

Enclosures

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF	)	CWA SECTION 311 CLASS I
	)	CONSENT AGREEMENT AND
Shriners Hospitals for Children	)	FINAL ORDER
950 W. Faris Road	)	UNDER 40 C.F.R. § 22.13(b)
Greenville, South Carolina 29605)	
)	
Respondent	)	Docket No. CWA-04-2013-7001(b)
<hr/>		

RECEIVED
EPA REGION IV
2013 SEP -3 AM 9:00
HEARING CLERK

I. LEGAL AUTHORITY

1. This Consent Agreement is proposed and entered into under the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) by Section 311(b)(6)(B)(i) of the Clean Water Act (“CWA”), 33 U.S.C. § 1321(b)(6)(B)(i), as amended by the Oil Pollution Act of 1990, and under the authority provided by 40 C.F.R. §§ 22.13(b) and 22.18(b)(2). The Administrator has delegated these authorities to the Regional Administrator of the EPA, Region 4, who has in turn delegated these authorities through the Director, RCRA Division, to the Chief, RCRA and OPA Enforcement and Compliance Branch, RCRA Division (“Complainant”).

II. CONSENT AGREEMENT

2. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to settle this action. Accordingly, before any testimony has been taken upon the pleadings and without any admission of violation or adjudication of any issue of fact or law, and in accordance with 40 C.F.R. § 22.13(b), Complainant and Respondent have agreed to the execution of this Consent Agreement and Final Order (CA/FO), and Respondent hereby agrees to comply with the terms of this CA/FO. For purposes of this CA/FO and settlement of this action, Respondent admits to the jurisdictional statements contained herein.

III. STIPULATIONS

3. Shriners Hospitals for Children (“Respondent”) is a non-profit corporation organized under the laws of the State of Colorado, doing business in the State of South Carolina. Respondent is a “person” within the meaning of Section 311(a)(7) of the CWA, 33 U.S.C. § 1321(a)(7).

4. Respondent is the “owner” and “operator,” within the meaning of Section 311(a)(6) of the CWA, 33 U.S.C. § 1321(a)(6), of a hospital facility located at 950 W. Faris Rd., South Carolina (the “Facility”). The Facility includes an above ground storage tank with a total capacity of approximately 2,000 gallons of “oil,” as that term is defined in Section 311(a)(1) of the CWA, 42 U.S.C. § 1321(a)(1).

5. The Facility is an “onshore facility” within the meaning of Section 311(a)(10) of the CWA, 33 U.S.C. § 1321(a)(10).

6. Pursuant to 40 C.F.R. § 112.1, the Spill Prevention, Control and Countermeasure (“SPCC”) regulations contained in 40 C.F.R. Part 112 apply to each owner and operator of a non-transportation-related onshore facility engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing, using or consuming oil or oil products, which, due to its location, could reasonably be expected to discharge oil into or upon the navigable waters of the United States and their adjoining shorelines in such quantity as may be harmful, as described in 40 C.F.R. § 110.3 (“harmful quantity”).

7. Respondent is engaged in storing and consuming oil products located at the Facility.

8. The Facility has an aggregate above ground storage capacity greater than 1,320 gallons of oil in containers, each with a capacity of at least 55 gallons.

9. The Facility is a non-transportation-related facility within the meaning of 40 C.F.R. § 112.2, as described in 40 C.F.R. Part 112, Appendix A.

10. The Facility is located adjacent to Bushy Creek, a tributary of Reedy River. Bushy Creek and Reedy River are navigable waters as defined in Section 502(7) of the CWA, 33 U.S.C. § 1362(7),

and 40 C.F.R. § 112.2 and are therefore subject to the jurisdiction of Section 311 of the CWA, 33 U.S.C. § 1321.

11. Due to its location, the Facility could reasonably be expected to discharge oil and/or other pollutants to Bushy Creek and Reedy River, and/or their adjoining shorelines, in “harmful” quantities, which are quantities that would (a) violate applicable water quality standards or (b) cause a film or sheen upon or discoloration of the surface of the navigable waters of the United States or adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of such water or adjoining shorelines.

12. The Facility is therefore a non-transportation-related onshore facility which, due to its location, could reasonably be expected to discharge a harmful quantity of oil to a navigable water of the United States or its adjoining shorelines and is, as such, an SPCC-regulated facility.

13. Pursuant to 40 C.F.R. § 112.3, the owner or operator of an SPCC-regulated facility must prepare in writing and implement an SPCC plan in accordance with 40 C.F.R. § 112.7 and any other applicable sections of 40 C.F.R. Part 112.

IV. ALLEGATIONS

Complainant alleges, and Respondent neither admits nor denies, that:

14. On January 25, 2010, an inspection was conducted by the EPA at Respondent’s Facility to determine compliance with SPCC regulations.

15. At the time of the January 25, 2010, inspection, Respondent failed to prepare and implement an adequate SPCC Plan (“Plan”) in accordance with 40 C.F.R. §§ 112.7, 112.8, and any other applicable sections of 40 C.F.R. Part 112, as required by 40 C.F.R. § 112.3(a). Specifically, the Plan violated the following requirements of the SPCC regulations:

- a. 40 C.F.R. § 112.3(d)- This regulation requires that a licensed Professional Engineer review and certify an SPCC Plan and satisfy the required attestations found in 40 C.F.R. § 112.3(d)(i)-(v). However, Respondent’s SPCC Plan reviewed during the inspection failed to have a licensed Professional Engineer review and sign the SPCC Plan.

- b. 40 C.F.R. § 112.5(b)- This regulation requires a facility to review its SPCC Plan once every five years. However, Respondent failed to review its SPCC Plan every five years.
- c. 40 C.F.R. § 112.7- This regulation requires that owners and operators of a facility prepare an SPCC Plan that has received full approval of management at a level of authority to commit the necessary resources to fully implement the SPCC Plan. However, Respondent's SPCC Plan had not been approved at a level of management authority required to commit the necessary resources to fully implement the plan.
- d. 40 C.F.R. § 112.7- This regulation requires an SPCC Plan to follow the sequence of the requirements as they are provided in 40 C.F.R. § 112.7 or, in the alternative, to provide a cross-reference of the requirements indicating the location of the requirements listed in 40 C.F.R. Part 112 and the equivalent requirements in the SPCC Plan. However, Respondent's SPCC Plan did not follow the sequence of 40 C.F.R. § 112.7, nor did it provide a cross-reference in lieu of following the sequence of the regulation.
- e. 40 C.F.R. § 112.7(a)(3)- This regulation requires an SPCC Plan to describe the physical layout of the facility and include a facility diagram, which must mark the location and contents of each fixed oil storage container and the location of all transfer stations and connecting pipes. However, Respondent's SPCC Plan did not include diagrams marking or showing the location of the facility's tanks, truck transfer station or connecting pipes.
- f. 40 C.F.R. § 112.7(b)- This regulation requires that an SPCC Plan include, where experience would indicate a reasonable potential for equipment failure (such as loading or unloading equipment, tank overflow, rupture, or leakage, or any other equipment known to be a source of a discharge), a prediction of the direction, rate of flow, and total quantity of oil which could be discharged from the facility as a result of each type of major equipment failure. However, Respondent's SPCC Plan did not include information pertaining to spills as specified in this regulation.
- g. 40 C.F.R. § 112.7(a)(4) & (5)- This regulation requires an SPCC Plan to include information and procedures to enable persons reporting a discharge as described in 40 C.F.R. § 112.1(b) to relate information on the exact address and location and phone number of the facility; the date and time of the discharge; the type of material discharged; estimates of the total quantity discharged; estimates of the quantity discharged as described in 40 C.F.R. § 112.1(b); the source of the discharge; a description of all affected media; the cause of the discharge; any damages or injuries caused by the discharge; actions being used to stop, remove, and mitigate the effects of the discharge; whether an evacuation may be needed; and, the names of individuals and/or organizations who have also been contacted. In addition, the SPCC Plan must describe the procedures a facility will use when a discharge occurs in a way that will make them readily usable in an emergency, and include appropriate supporting material as appendices. However, Respondent's SPCC Plan did not include information and procedures for reporting spills as specified in this regulation.
- h. 40 C.F.R. § 112.7(h)(1)- This regulation requires that a facility design any containment system to hold at least the maximum capacity of any single compartment of a tank car or tank truck loaded or unloaded at the facility. Pursuant to 40 C.F.R. § 112.7(a)(1), an SPCC Plan must include a discussion of conformance with the foregoing requirements. However,

Respondent's SPCC Plan failed to discuss containment methods for tanker truck loading/unloading areas and for facility piping. Additionally, Respondent did not provide adequate secondary containment for piping or the tanker truck loading/unloading areas, as required by this regulation.

- i. 40 C.F.R. § 112.7(f)(1-3)- This regulation requires that a facility, at a minimum, train its oil handling personnel in the operation and maintenance of equipment to prevent discharges; discharge procedure protocols; applicable pollution control laws, rules, and regulations; general facility operations; and, the contents of the facility SPCC Plan. This regulation also requires a facility to designate a person who is accountable for discharge prevention and who reports to facility management, and requires a facility to schedule and conduct discharge prevention briefings at least once a year to assure adequate understanding of the SPCC Plan for that facility. Such briefings must highlight and describe known discharges as described in 40 C.F.R. § 112.7(b) or failures, malfunctioning components, and any recently developed precautionary measures. Pursuant to 40 C.F.R. § 112.7(a)(1), an SPCC Plan must include a discussion of conformance with the foregoing requirements. However, the Respondent's SPCC Plan did not discuss the necessary aspects of required trainings, designations and briefings.
- j. 40 C.F.R. § 112.7(g)- This regulation requires that a facility discuss in its SPCC Plan how the facility secures and controls access to the oil handling, processing and storage areas; secures master flow and drain valves; prevents unauthorized access to starter controls on oil pumps; secures out-of-service and loading/unloading connections of oil pipelines; and address the appropriateness of security lighting to both prevent acts of vandalism and assist in the discovery of oil discharges. However, the Respondent's SPCC Plan did not discuss security mechanisms as discussed above.
- k. 40 C.F.R. §§ 112.8(b)(1 & 2) and (c)(3)- This regulation requires, at 40 C.F.R. § 112.8(b)(1 & 2), that a facility restrain drainage from diked storage areas by valves to prevent a discharge into the drainage system or facility effluent system, and use valves of manual, open-and-closed design, for the drainage of diked areas. This regulation also requires, at 40 C.F.R. § 112.8(c)(3), that a facility normally keep the bypass valve sealed closed, inspect retained rainwater to ensure that its presence will not cause a discharge as described in 40 C.F.R. § 112.1(b), open the bypass valve and reseal it following drainage under responsible supervision, and keep adequate records of such events. Pursuant to 40 C.F.R. § 112.7(a)(1), an SPCC Plan must include a discussion of conformance with the foregoing requirements. However, Respondent's SPCC Plan did not discuss drainage from diked areas as discussed above.
- l. 40 C.F.R. § 112.8(c)(1)- This regulation, and 40 C.F.R. § 112.7(a)(1), requires that an SPCC Plan discuss how containers used for the storage of oil are compatible with the material stored and conditions of storage such as temperature and pressure. However, Respondent's SPCC Plan did not discuss container compatibility as discussed above.
- m. 40 C.F.R. § 112.8(c)(2)- This regulation requires that a facility construct all bulk storage tank installations so that a secondary means of containment is provided for the entire capacity of the largest single container and sufficient freeboard to contain precipitation. Facilities must ensure that diked areas are sufficiently impervious to contain discharged oil.

Pursuant to 40 C.F.R. § 112.7(a)(1), an SPCC Plan must include a discussion of conformance with the foregoing requirements. However, Respondent's SPCC Plan did not discuss the secondary containment provided for its containers or address how the diked areas are sufficiently impervious to contain discharged oil.

- n. 40 C.F.R. § 112.8(c)(6)- This regulation requires that a facility test and inspect each aboveground container for integrity on a regular schedule and when material repairs are made. Pursuant to 40 C.F.R. § 112.7(a)(1), an SPCC Plan must include a discussion of conformance with the foregoing requirements. However, Respondent's SPCC Plan did not discuss testing and inspection procedures for its bulk storage container.
- o. 40 C.F.R. § 112.8(c)(10)- This regulation requires that a facility promptly correct visible discharges which result in a loss of oil from the container, including but not limited to seams, gaskets, piping, pumps, valves, rivets, and bolts, and promptly remove any accumulations of oil in diked areas. Pursuant to 40 C.F.R. § 112.7(a)(1), an SPCC Plan must include a discussion of conformance with the foregoing requirements. However, Respondent's SPCC Plan did not discuss compliance with this requirement.
- p. 40 C.F.R. § 112.8(c)(11)- This regulation requires that a facility position or locate mobile or portable oil storage containers to prevent a discharge as described in 40 C.F.R. § 112.1(b), and furnish a secondary means of containment sufficient to contain the capacity of the largest single compartment or container with sufficient freeboard to contain precipitation. Pursuant to 40 C.F.R. § 112.7(a)(1), an SPCC Plan must include a discussion of conformance with the foregoing requirements. However, Respondent's SPCC Plan did not discuss compliance with the mobile or portable oil storage container requirements.
- q. 40 C.F.R. § 112.8(d)- This regulation requires that a facility (1) provide buried piping with a protective wrapping and coating, (2) cap or blank flange the terminal connection at the transfer point and mark it as to origin when piping is not in service or is in standby service for an extended period of time, (3) properly design pipe supports to minimize abrasion and corrosion and allow for expansion and contraction, (4) regularly inspect all aboveground valves, piping and appurtenances, and (5) warn all vehicles entering the facility to be sure that no vehicle will endanger aboveground or other oil transfer operations. Pursuant to 40 C.F.R. § 112.7(a)(1), an SPCC Plan must include a discussion of conformance with the foregoing requirements. However, Respondent's SPCC Plan did not discuss compliance with the foregoing requirements.

16. Paragraphs The EPA therefore alleges that Respondent violated the regulatory requirements cited in 12.a. through 12.q. above, and is therefore in violation of 40 C.F.R. § 112.3.

V. WAIVER OF RIGHTS

17. Solely for the purpose of this Consent Agreement, Respondent waives the right to contest the allegations contained herein, to a hearing under Section 311(b)(6)(B)(i) of the CWA, 33 U.S.C.

1321(b)(6)(B)(i), and to appeal any Final Order in this matter under Section 311(b)(6)(G)(i) of the CWA, 33 U.S.C. § 1321(b)(6)(G)(i), and consents to the issuance of a Final Order without further adjudication.

18. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to EPA officials where the purpose of such discussion, memorandum, or communication is to persuade such official to accept and issue this CA/FO.

19. Respondent waives its right to challenge the validity of this CA/FO and the settlement of the matters addressed in this CA/FO based on any issue based on the Paper Reduction Act, 44 U.S.C. § 3501 *et seq.*

20. The Final Order does not constitute a waiver, suspension or modification of the requirements of Section 311 of the CWA, 33 U.S.C. § 1321, or any regulations promulgated thereunder, and does not affect the right of the Administrator or the United States to pursue any applicable injunctive or other equitable relief or criminal sanctions for any violation of law.

VI. PAYMENT OF CIVIL PENALTY

21. Respondent consents to the payment of a civil penalty in the amount of FIVE THOUSAND SIX HUNDRED DOLLARS (\$5,600), which is to be paid within thirty (30) calendar days of the effective date of this CA/FO.

22. Payment shall be made by a corporate/cashier's or certified check, by electronic funds transfer (EFT), or on-line. If paying by check, Respondent shall submit a corporate/cashier's or certified check, payable to the "Environmental Protection Agency." The check shall bear the notation "OSLTF – 311" and Respondent shall reference the title and docket number of this case on the face of the check.

If Respondent sends payment by the U.S. Postal Service, the payment shall be sent to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
Post Office Box 979077
St. Louis, Missouri 63197-9000

If Respondent sends payment by an overnight commercial delivery service such as DHL, FedEx, or UPS, the payment shall be sent to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, Missouri 63101
(314) 418-1028

If Respondent sends payment by wire transfer, the wire transfer should be directed to the Federal Reserve Bank of New York:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, New York 10045

The Field Tag 4200 of the Fedwire message should read “D 68010727 Environmental Protection Agency.”

Respondent may also elect the On-Line Payment Option, available through the Department of Treasury. This payment option can be accessed at www.pay.gov. Enter sfo 1.1 in the search field and then open the form and complete required fields.

23. Respondent shall submit copies of each check (or, in the case of a wire transfer or on-line payment, a copy of the wire transfer or on-line confirmation) to the following people:

Patricia Bullock
Regional Hearing Clerk
U.S. EPA, Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960

and to:

Larry Lamberth, Chief
South Enforcement and Compliance Section
RCRA and OPA Enforcement and Compliance Branch
RCRA Division, US EPA Region IV
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8909

24. Penalties paid pursuant to this CA/FO are not deductible for federal purposes under 26 U.S.C. § 162(f).
25. Respondent's failure to pay the penalty assessed by the Final Order in full by its due date may subject Respondent to a civil action to collect the assessed penalty, plus interest, attorney's fees, costs and an additional quarterly nonpayment penalty pursuant to Section 311(b)(6)(H) of the CWA, 33 U.S.C. § 1321(b)(6)(H). In any such collection action, the validity, amount, and appropriateness of the penalty agreed to herein shall not be subject to review.

VII. GENERAL PROVISIONS

26. The Final Order shall be binding upon Respondent and Respondent's officers, directors, agents, and successors or assigns.
27. No change in ownership, partnership, corporate, or legal status relating to the Facility will in any way alter Respondent's obligations and responsibilities under this CA/FO.
28. Compliance with this CA/FO resolves Respondent's liability for federal civil penalties for the violations and facts stipulated to and alleged herein.

29. The undersigned representative of Respondent hereby certifies that he or she is fully authorized to enter into and execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and the attached Final Order.

30. A copy of any documents that Respondent files in this action shall be sent to the following attorney who represents the EPA in this matter and who is authorized to receive service for the EPA in this proceeding:

Roberto X. Busó
Associate Regional Counsel
Office of Environmental Accountability
U.S. Environmental Protection Agency, Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960
404-562-8530
Buso.roberto@epa.gov

31. A copy of any documents that Complainant files in this action shall be sent to the following individual who represents Respondent in this matter and who is to receive service for Respondent in this proceeding:

Shriners Hospitals for Children
ATTN: Vice President, Legal
P.O. Box 31356
Tampa, FL 33631

32. By executing this CA/FO, Respondent certifies that all violations alleged herein, which are neither admitted nor denied, have been corrected.

VIII. SEVERABILITY

33. It is the intent of the parties that the provisions of this CA/FO are severable. If any provision or authority of this CA/FO or the application of this CA/FO to any party or circumstance is held by any judicial or administrative authority to be invalid or unenforceable, the application of such

provisions to other parties or circumstances and the remainder of the CA/FO shall remain in force and shall not be affected thereby.

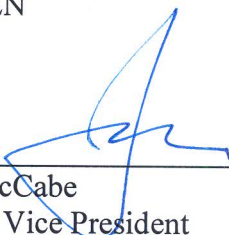
IX. EFFECTIVE DATE

34. This Consent Agreement and Final Order is effective when the Final Order is filed with the Regional Hearing Clerk.

CONSENTED AND AGREED TO:

By: SHRINERS HOSPITALS FOR CHILDREN


Date: AUG 16 2013



John P. McCabe
Executive Vice President

By: U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: 08/27/13



César A. Zapata, Chief
RCRA and OPA Enforcement and Compliance Branch
RCRA Division

IN THE MATTER OF	)	CWA SECTION 311 CLASS I
	)	CONSENT AGREEMENT AND
Shriners Hospitals for Children	)	FINAL ORDER
950 W. Faris Road	)	UNDER 40 C.F.R. § 22.13(b)
Greenville, South Carolina 29605)	
)	
Respondent	)	Docket No. CWA-04-2013-7001(b)_____
_____)	

FINAL ORDER

The foregoing Consent Agreement is hereby approved, ratified and incorporated by reference into this Final Order in accordance with the *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. The Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

BEING AGREED, IT IS SO ORDERED this 29 day of August, 2013.

BY: Susan B. Schub
 Susan Schub
 Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the Foregoing Consent Agreement and Final Order, in the matter of Shriners Hospitals for Children, Docket No. CWA-04-2013-7001(b), on the parties listed below in the manner indicated:

Roberto Busó
Assistant Regional Counsel
Office of Environmental Accountability
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303

(Via EPA's internal mail)

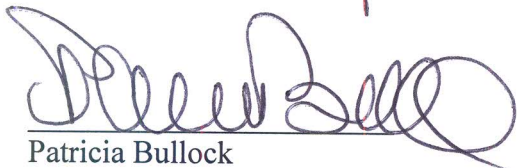
Quantindra Smith
RCRA & OPA Enforcement and Compliance Branch
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303

(Via EPA's internal mail)

Shriners Hospitals for Children
Attn: Vice President, Legal
P.O. Box 31356
Tampa, Florida 33631-3356

(Via Certified Mail)

Dated this 9 day of September, 2013.



Patricia Bullock
Regional Hearing Clerk
U.S. EPA – Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960