

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029**

IN RE:

United States Department of the Navy,  
  
Respondent,  
  
Joint Base Anacostia-Bolling  
Washington, DC  
  
Facility.

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:  
: U.S. EPA-REGION 3-RHC  
: FILED-4MAY2018AM10:01  
:  
: Docket No. CAA-RCRA-03-2018-0087  
:  
: Proceeding under 42 U.S.C. §§ 7413 and  
: 7418(a) and 42 U.S.C. §§ 6928(a) and (g)  
: and 6961(b)  
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**CONSENT AGREEMENT**

**Preliminary Statement**

This Consent Agreement (“CA”) is entered into by the Director of the Office of Enforcement, Compliance, and Environmental Justice, U.S. Environmental Protection Agency, Region III (“EPA” or “Complainant”), and the U.S. Department of the Navy (“Respondent”), pursuant to Sections 113 and 118(a) of the Clean Air Act (“CAA”), 42 U.S.C. §§ 7413 and 7418(a), Sections 3008(a)(1) and (g), and 6001(b) of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. §§ 6928(a)(1) and (g), and 6961(b), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules”), 40 C.F.R. Part 22, including, specifically 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3). The authority to enter into this CA has been duly delegated to the Regional Administrator by EPA Delegations 7-6A and 8-9-A and re-delegated to Complainant by EPA Region III Delegations 7-6A and 8-9-A.

The Consolidated Rules, at 40 C.F.R. § 22.13(b), provide, in pertinent part, that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a consent agreement and final order pursuant to 40 C.F.R. § 22.18(b)(2) and (3). Pursuant thereto, this CA and the accompanying Final Order (“FO”), collectively referred to herein as the “CAFO” simultaneously commences and concludes this administrative proceeding against Respondent.

### **Regulatory Background**

This CAFO resolves violations of the CAA, 42 U.S.C. §§ 7401, *et seq.* in connection with Respondent's facility located at Joint Base Anacostia-Bolling, Washington D.C. ("Facility"). EPA is authorized by Section 110 of the CAA, 42 U.S.C. § 7410, to approve a federally-enforceable state implementation plan ("SIP"), and by Section 113 of the CAA, 42 U.S.C. § 7413, to take action to ensure that air pollution sources comply with all federally-applicable air pollution control requirements, including requirements promulgated by EPA and those contained in federally-enforceable state implementation plans or permits. EPA originally approved the District of Columbia ("D.C.") SIP on December 6, 1973, at 38 Fed. Reg. 33709, and has periodically approved revisions to the SIP after that date. Title V of the CAA, 42 U.S.C. §§ 7661 – 7661f, and its implementing regulations at 40 C.F.R. Part 70, require states to develop and submit to EPA operating permit programs, and EPA to approve or disapprove such programs. EPA fully approved the Title V operating permit program for D.C., effective on June 2, 2003, 40 C.F.R. Part 70, App. A.

Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), among other things, limits the Administrator's authority to matters where the first alleged violation occurred no more than twelve (12) months prior to the initiation of an administrative action, except where the Administrator and the Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action. The Administrator and Attorney General, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this CAFO.

Respondent was previously notified regarding the CAA allegations recited herein in a letter dated June 23, 2017. EPA has notified D.C. of EPA's intent to enter into a CAFO with Respondent to resolve the CAA violations set forth herein.

This CAFO also resolves violations of RCRA, Subtitle C, 42 U.S.C. §§ 6921- 6939f, and regulations in the authorized D.C. hazardous waste program in connection with Respondent's Facility.

D.C. initially received final authorization for its hazardous waste regulations, the D.C. Hazardous Waste Regulations ("DCHWR"), 20 DCMR 40 – 54, on March 8, 1985, effective March 22, 1985 (50 Fed. Reg. 9427). EPA reauthorized D.C.'s regulatory program on September 10, 2001, effective November 9, 2001 (66 Fed. Reg. 46961). The provisions of the revised federally-authorized regulations are enforceable by EPA pursuant to Section 3008(a) of the RCRA, 42 U.S.C. § 6928(a). The factual allegations and legal conclusions in this CA are based on provisions of the federally-authorized DCHWR in effect at the time of the violations alleged herein.

Respondent was previously notified regarding the RCRA Subtitle C allegations recited herein in a letter dated June 23, 2017. In accordance with Sections 3008(a)(2) of the RCRA, 42

U.S.C. § 6928(a)(2), EPA has notified D.C. of EPA's intent to enter into a CAFO with Respondent resolving the RCRA Subtitle C violations set forth herein.

**General Provisions**

1. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
2. Respondent neither admits nor denies the specific factual allegations and conclusions of law set forth in this CAFO, except as provided in Paragraph 1, above.
3. Respondent agrees not to contest EPA's jurisdiction with respect to the execution of this CA, the issuance of the attached Final Order, or the enforcement of the CAFO.
4. For the purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this CA and any right to a hearing and to appeal the accompanying Final Order, including any right to confer with the EPA Administrator under 40 C.F.R. § 22.31(e). Respondent also expressly waives any right to a hearing pursuant to CAA Section 113(d)(2)(A), 42 U.S.C. § 7413(d)(2)(A), and any right to confer with the Administrator pursuant to RCRA Section 6001(b)(2), 42 U.S.C. § 6961(b)(2).
5. Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions.
6. Respondent shall bear its own costs and attorney's fees.
7. Respondent, upon investigation, certifies to EPA by its signature herein that, to the best of its knowledge and belief, it is presently in compliance with the provisions of the CAA and the RCRA referenced herein.
8. The provisions of this CAFO shall be binding upon Complainant and Respondent and any successors and assigns.
9. This CAFO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit; nor does this CAFO constitute a waiver, suspension or modification of the requirements of the RCRA, the CAA, or any regulations promulgated thereunder.

**EPA's Findings of Fact and Conclusions of Law**

10. In accordance with the Consolidated Rules at 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3), Complainant makes the findings of fact and conclusions of law which follow.
11. Respondent is a Department of the United States and has been, at all times relevant to this CAFO, the owner and operator of the Facility, which is the result of the consolidation of Naval Support Facility Anacostia and Bolling Air Force Base; this consolidation reached full operational capability in 2010.
12. EPA conducted an inspection of the Facility on September 1-3, 2015 ("EPA Inspection").

**COUNT I (CAA – TITLE V PERMIT)**

13. The allegations in each of the preceding paragraphs of this CAFO are incorporated by reference as though fully set forth herein.
14. Under Section 110 of the CAA, 42 U.S.C. § 7410, EPA has the authority to approve a SIP, which is federally enforceable once it is approved by EPA. EPA originally approved the D.C. SIP on December 6, 1973, at 38 Fed. Reg. 33709, and has periodically approved revisions to the SIP after that date.
15. Title V of the CAA, 42 U.S.C. §§ 7661 – 7661f, and implementing regulations at 40 C.F.R. Part 70, require that states develop and submit to EPA operating permit programs, and that EPA approve or disapprove each program.
16. Provisions included by state permitting authorities in Title V permits issued under a program approved by EPA are enforceable by EPA unless denoted in the permit as a state or local requirement that is not federally-enforceable.
17. EPA fully approved the Title V operating permit program for D.C. effective on June 2, 2003, 40 C.F.R. Part 70, Appendix A.
18. At the time of the EPA Inspection there were two Title V Operating Permits in effect for the Facility. Both permits were issued in 2004 and were in effect at the time of the EPA Inspection as they had been administrative extended. Permit Number 003 pertained to the Bolling Air Force Base portion of the Facility and Permit Number 011 pertained to the Naval Support Facility Anacostia portion of the Facility.
19. Pursuant to Section 113(a)(1) of the CAA, 42 U.S.C. § 7413(a)(1), EPA has the authority to issue administrative penalty orders for violations of any requirement or prohibition contained in a federally-enforceable SIP or permit.

**Failure to Comply with Fuel Sampling and Testing Requirements**

20. Permit Condition B.1.f. of Title V Permit No. 003 imposes requirements pertaining to sampling and testing of fuel oil. This permit condition includes provisions which require that regardless of where testing is performed, the certified results of the fuel oil must include the fuel oil's grade, API Gravity at 60 degrees Fahrenheit using ASTM test Method D-1298, heat content in BTUs per gallon using ASTM test Method D-240, and weight percent sulfur using ASTM test Method D-4294.
21. Permit Condition E.2. of Title V Permit No. 003 requires Respondent to submit an Annual Certification Report certifying compliance with the terms and condition of the permit.
22. Permit Condition E.2.b.(2) of Title V Permit No. 003 requires that the Annual Certification Report must include for each fuel sample (whether the information originated from the permittee or the fuel supplier): the fuel oil grade; the API Gravity at 60 degrees Fahrenheit; the heat content in BTUs per gallon; the weight percent sulfur of the fuel oil; the date and time the sample was taken; the name, address and telephone of the laboratory that analyzed the sample; and the type of test or test method performed. Section F.2 of the Permit requires Respondent to keep and maintain all records required by the Permit for a period of at least five years from the date of the test, monitoring sample, measurements or report.
23. As reflected in Appendix F to the Annual Certification Report for calendar year 2013 for Title V Permit No. 003, the Facility did not uniformly maintain the information required by Permit Condition B.1.f. of Title V Permit No. 003 during calendar year 2013.
24. For calendar year 2013, Respondent violated Permit Conditions E.2.b.(2) and F.2 of Title V Permit No. 003 by failing to maintain the information required by Permit Condition B.1.f. of Title V Permit No. 003.

**Photo-Chemically Reactive Solvent Emission Calculations**

25. Permit Condition B.6 of Title V Permit No. 003 requires Respondent to calculate emissions of photo-chemically reactive solvent from printing presses in Defense Intelligence Agency Building 6000 in order to ensure that daily and hourly thresholds are not exceeded. Specific formulas for those calculations are set forth in the permit condition. Records to demonstrate compliance with this condition are required to be kept pursuant to Permit Condition F.4. of Title V Permit No. 003.
26. For calendar years 2013 and 2014, Respondent used the incorrect methodology to calculate the daily and hourly emissions of photo-chemically reactive solvent from printing presses in Defense Intelligence Agency Building 6000.

27. Respondent violated Permit Condition B.6. of Title V Permit No. 003 by incorrectly calculating the daily and hourly emissions of photo-chemically reactive solvent from printing presses in Defense Intelligence Agency Building 6000.

**Visible Emissions from Emergency Standby Generators**

28. Permit Condition B.7.d. of Title V Permit No. 003 provides that, “No visible emissions shall be emitted into the outdoor atmosphere from any emergency generator; except that no greater than 40% opacity (unaveraged) shall be permitted for two minutes per 24-hour period during start-up, cleaning, adjustment of combustion controls, or malfunction of any emergency generator [20 DCMR 606.1].”
29. On March 15, 2013, three emergency standby generators at the Defense Intelligence Agency Building 6000A released black smoke; the emissions began at 9:42AM and ended at 6:15PM. These emissions exceeded the permit limits both in terms of opacity percentage, as well as duration.
30. The visible emissions emitted by the three emergency standby generators at the Defense Intelligence Agency Building 6000A on March 15, 2003, constitute a violation of Permit Condition B.7.d. of Title V Permit No. 003.

**COUNT II (RCRA SUBTITLE C – OPERATING WITHOUT A PERMIT)**

31. The allegations in each of the preceding paragraphs of this CAFO are incorporated by reference as though fully set forth herein.
32. Respondent is a department, agency and/or instrumentality of the United States and is a “person” as defined by Section 1004(15) of the RCRA, 42 U.S.C. § 6903(15), and 20 DCMR § 5400.1.
33. Respondent is and has been through the period of the violations alleged herein, a “generator” of, and has engaged in the “storage” of, materials that are “solid wastes” and “hazardous waste” at the Facility as those terms are defined by 20 DCMR § 5400.1.
34. Respondent is a Large-Quantity Generator (LQG) of hazardous waste that generates hazardous waste at the Facility in an amount greater than 1,000 kilograms per month, and uses EPA ID DC9570090036.
35. Respondent is and, at all times relevant to this CAFO, has been an “owner” and “operator” of the Facility, as those terms are defined in 20 DCMR § 5400.1.
36. Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and 20 DCMR § 4600.5, provide, in pertinent part, that a person may not operate a hazardous waste storage,

treatment or disposal facility unless such person has first obtained a permit for the facility.

37. 20 DCMR § 4202.7 provides, in relevant part, that a generator may accumulate hazardous waste on-site for ninety (90) days or less without a permit or without having interim status, provided that:
- a. The waste is placed in containers and the generator complies with 20 DCMR § 4415;
  - b. The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container; and
  - c. While being accumulated on-site, each container and tank is labeled and marked clearly with the words "Hazardous Waste."

#### **Container Labeling**

38. 20 DCMR § 4202.7(c) and (d) respectively require that each container have upon it the date upon which each period of accumulation begins and be labeled or marked clearly with the words, "Hazardous Waste" while being accumulated on-site.
39. At the time of the EPA Inspection, September 1 -3, 2015, the following hazardous wastes were not marked clearly as "Hazardous Waste" and did not have upon them accumulation start dates:
- a. An open box of used fluorescent bulbs in a caged room in the vicinity of Building 421;
  - b. An open box containing a broken bulb in a roll-off outside of Building 421;
  - c. An open box containing bulbs in a Maintenance Closet in Building 4412;
  - d. Three boxes containing bulbs in the Defense Intelligence Agency Building;
  - e. An open box containing a bulb from a video lamp in the Defense Intelligence Agency Building.
40. The contents of the containers described in Paragraph 39, above, are and were, at all times relevant to the violations alleged herein, "solid wastes," as defined in 20 DCMR §§ 4100.4 through 4100.11, and "hazardous wastes," as defined 20 DCMR §§ 4100.12 through 4100.17.
41. Respondent violated 20 DCMR § 4202.7(c) and (d), during the September 1-3, 2015, EPA Inspection by failing to ensure that containers holding hazardous waste had a label with the date upon which each period of accumulation begins and while being accumulated on-site each container is labeled and marked clearly with the words "Hazardous Waste."

**Open Containers**

42. 20 DCMR § 4415.5 requires that a container holding hazardous waste always be closed during storage, except when it is necessary to add or remove waste.
43. At the time of the EPA Inspection, September 1 -3, 2015, the following containers of hazardous waste were open and hazardous waste was not being added nor removed at the time of the observation:
- a. A box of used fluorescent bulbs in a caged room in the vicinity of Building 421;
  - b. A box containing a broken bulb in a roll-off outside of Building 421;
  - c. A box containing bulbs in a Maintenance Closet in Building 4412;
  - d. Three boxes containing bulbs in the Defense Intelligence Agency Building;
  - e. A box containing a bulb from a video lamp in the Defense Intelligence Agency Building.
44. Respondent violated 20 DCMR § 4415.5, during the September 1-3, 2015, EPA Inspection by failing to ensure that a container holding hazardous waste be closed during storage, except when it is necessary to add or remove waste.
45. For the reasons and during each of the dates and time periods identified in Paragraphs 38 through 44 above, Respondent failed to comply with the permit exemption conditions, identified in Paragraph 37, above, for temporary (i.e., 90 days or less) accumulation of hazardous waste by a generator at the Facility, as required pursuant to 20 DCMR § 4202.7, and therefore failed to qualify for an exemption from the permitting/interim status requirements provided by such section.
46. For each of the reasons and during each of the dates and time periods identified in Paragraphs 38 through 44 above, Respondent engaged in the operation of a hazardous waste storage facility (i.e., the Facility) without having interim status or obtaining a permit for the Facility pursuant to Section 3005 of RCRA, 42 U.S.C. § 6925, or 20 DCMR § 4600.5.

**COUNT III (RCRA SUBTITLE C – OPEN CONTAINERS)**

47. The allegations in each of the preceding paragraphs of this CAFO are incorporated by reference as though fully set forth herein.
48. 20 DCMR § 4415.5 requires that a container holding hazardous waste always be closed during storage, except when it is necessary to add or remove waste.
49. At the time of the EPA Inspection, September 1-3, 2015, the following containers of



hazardous waste were open and hazardous waste was not being added nor removed at the time of the observation:

- a. A box of used fluorescent bulbs in a caged room in the vicinity of Building 421;
- b. A box containing a broken bulb in a roll-off outside of Building 421;
- c. A box containing bulbs in a Maintenance Closet in Building 4412;
- d. Three boxes containing bulbs in the Defense Intelligence Agency Building;
- e. A box containing a bulb from a video lamp in the Defense Intelligence Agency Building.

50. Respondent violated 20 DCMR § 4415.5, during the September 1 -3, 2015, EPA Inspection, by failing to ensure that a container holding hazardous waste be closed during storage, except when it is necessary to add or remove waste.

#### **COUNT IV (RCRA SUBTITLE C – WASTE DETERMINATIONS)**

51. The allegations in each of the preceding paragraphs of this CAFO are incorporated by reference as though fully set forth herein.
52. 20 DCMR § 4100.4 defines solid waste as “any discarded material that is not excluded by § 4101.1 or that is not excluded by variance granted under §§ 4001.15 and 4001.16.”
53. 20 DCMR § 4200.10 requires a person who generates solid waste to determine whether that waste is hazardous waste using one of the methods described therein.
54. At the time of the EPA Inspection, September 1-3, 2015, Respondent failed to make a hazardous waste determination for the following solid wastes:
- a. Expired medications in Room 119, Building 1300 (Pharmacy); and
  - b. An aerosol can in a trash can outside of Building 421.
55. Respondent violated 20 DCMR § 4200.10, during the September 1 -3, 2015, EPA Inspection, by failing to determine whether the solid wastes set forth in Paragraph 54, above, were hazardous waste.

#### **COUNT V (RCRA SUBTITLE C – UNIVERSAL WASTE BATTERY)**

56. The allegations in each of the preceding paragraphs of this CAFO are incorporated by reference as though fully set forth herein.
57. 20 DCMR §§ 4801.1 and 4800.3 through 4800.7 define the types of batteries which are subject to the universal waste management standards.
58. 20 DCMR § 4801.13 requires that a handler of universal waste shall demonstrate the length of time that the universal waste has been accumulated from the date it becomes a

waste or is received; this provision sets forth a variety of ways in to make such demonstration.

59. At the time of the EPA Inspection, September 1-3, 2015, there were four waste batteries at Building 352B (Marine Motor T), which were subject to the universal waste management standards, for which there was no means of demonstrating the length of time the batteries had been accumulated.
60. Respondent violated 20 DCMR § 4801.13, during the September 1 -3, 2015, EPA Inspection, by failing to maintain a means of demonstrating the length of time four waste batteries at Building 252B (Marine Motor T) had accumulated.

### CIVIL PENALTY

61. Respondent consents to the assessment of a civil penalty of FIFTY-ONE THOUSAND NINE HUNDRED TWENTY dollars (\$51,920.00) in full satisfaction of all claims for civil penalties for the violations alleged in the above five counts of this CAFO. Respondent must pay the civil penalty no later than **THIRTY (30)** calendar days after the date on which this CAFO is mailed or hand-delivered to Respondent.
62. For the violations alleged in Count I, EPA considered a number of factors, including, but not limited to, the penalty assessment criteria in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), including (in addition to such other factors as justice may require) the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration of the violation, payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, and the seriousness of the violation; and the *Clean Air Act Stationary Source Civil Penalty Policy* (1991). EPA also considered the *Adjustments of Civil Penalties for Inflation and Implementing the Debt Collection Improvement Act of 1996* ("DCIA"), as set forth in 40 C.F.R. Part 19, the December 6, 2013 memorandum by EPA Assistant Administrator Cynthia Giles entitled, *Amendments to the U.S. Environmental Protection Agency's Civil Penalty Policies to Account for Inflation (Effective December 6, 2013)* ("2013 Giles Memorandum").
63. For the violations alleged in Counts II-V, EPA considered a number of factors including, but not limited to, the statutory factors set forth in Section 3008(a)(3) of the RCRA, 42 U.S.C. § 6928(a)(3), *i.e.*, the seriousness of Respondent's violations and the good faith efforts by Respondent to comply with the applicable requirements of the RCRA, and the *RCRA Civil Penalty Policy* (2003). EPA has also considered the DCIA, as set forth in 40 C.F.R. Part 19, and the 2013 Giles Memorandum.
64. Payment of the civil penalty amount required under the terms of Paragraph 61, above, shall be made by either cashier's check, certified check or electronic wire transfer, in the following manner:

- a. All payments by Respondent shall reference its name and address and the Docket Number of this action (Docket No. CAA-RCRA-03-2018-0087);
- b. All checks shall be made payable to “**United States Treasury;**”
- c. All payments made by check and sent by regular mail shall be addressed and mailed to:

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

- d. All payments made by check and sent by overnight delivery service shall be addressed and sent to:

U.S. Bank  
Government Lockbox 979077  
U.S. EPA, Fines & Penalties  
1005 Convention Plaza  
Mail Station SL-MO-C2-GL  
St. Louis, MO 63101

- e. All electronic wire transfer payments shall be directed to:

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”

- f. All payments through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX/Cashlink ACH Receiver  
ABA = 051036706  
Transaction Code 22 - checking  
Account 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 – Checking

Physical location of U.S. Treasury Facility:

5700 Rivertech Court  
Riverdale, MD 20737

The Customer Service contact for the above method of payment is REX at 1-866-234-5681.

- g. There is an on-line payment option available through the Department of the Treasury. This payment option can be accessed from: WWW.PAY.GOV. Enter sfo 1.1 in the search field and complete all required fields in the form.
  - h. Payment may be made using the Intra Governmental Payment and Collection application (IPAC), ALC 68-01-0727, and Treasury Symbol 681099. Please include the Docket Number of this action (Docket No. CAA-RCRA-03-2018-0087) in the description field of the IPAC.
65. At the same time that any payment is made, Respondent shall mail copies of any corresponding check, or written notification confirming any electronic wire transfer, to:

Regional Hearing Clerk (3RC00)  
U.S. Environmental Protection Agency  
Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029

and to

Daniel L. Isales (3RC60)  
Environmental Science Center  
U.S. Environmental Protection Agency, Region III  
701 Mapes Road  
Fort Meade, MD 20755-5350

66. If the event that the payment required by Paragraph 61 is not made within thirty (30) calendar days from the effective date of this CAFO, interest, administrative costs and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim shall be managed in accordance with 31 U.S.C. § 3717, Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), and 40 C.F.R. § 13.11. Respondent disputes EPA's authority to impose interest charges on a federal agency and reserves its right to dispute any imposition of interest by EPA.

**RESERVATION OF RIGHTS**

67. This CAFO resolves only the civil claims for monetary penalties for the specific violations alleged in the CAFO. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under the RCRA, the CAA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its filing with the Regional Hearing Clerk. Respondent reserves all available rights and defenses it may have to defend itself in any such action.

**FULL AND FINAL SATISFACTION**

68. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Sections 113 and 118(a) of the CAA, 42 U.S.C. §§ 7413 and 7418(a), and Sections 3008(a)(1) and (g), 6001(b) of the RCRA, 42 U.S.C. §§ 6928(a)(1) and (g), 6961(b) for the specific violations alleged in this CAFO. This CAFO constitutes the entire agreement and understanding of the parties regarding settlement of all claims pertaining to specific violations alleged herein, and there are no representations, warranties, covenants, terms, or conditions agreed upon between the parties other than those expressed in this CAFO.

**ANTIDEFICIENCY ACT**

69. Failure to obtain adequate funds or appropriations from Congress does not release Respondent from its obligation to comply with the RCRA, the CAA, the applicable regulations thereunder, or with this CAFO. Nothing in this CAFO shall be interpreted to require obligation or payment of funds in violation of the Antideficiency Act, 31 U.S.C. § 1341.

**AUTHORITY TO BIND THE PARTIES**

70. The undersigned representative of Respondent certifies that he or she is fully authorized by the Respondent to enter into the terms and conditions of this CA and to bind the Respondent to it.

**EFFECTIVE DATE**

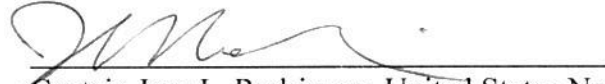
71. This CAFO shall become effective upon filing with the Regional Hearing Clerk.

**For Respondent:**

The United States Department of the Navy

6 APR 2018

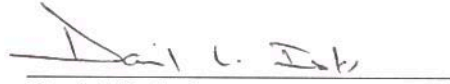
Date

  
\_\_\_\_\_  
Captain Jose L. Rodriguez, United States Navy  
Installation Commanding Officer

**For Complainant:**

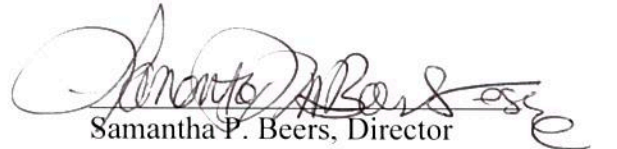
U.S. Environmental Protection Agency,  
Region III

4/13/18  
Date

  
Daniel L. Isales  
Assistant Regional Counsel  
U.S. EPA – Region III

Accordingly, I hereby recommend that the Regional Administrator or his designee, the Regional Judicial Officer, issue the Final Order attached hereto pertaining to Docket No. CAA-RCRA-03-2018-0087.

4/27/18  
Date

  
Samantha P. Beers, Director  
Office of Enforcement, Compliance, and  
Environmental Justice  
U.S. EPA - Region III

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029**

**IN RE:** :  
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 United States Department of the Navy, :  
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 :  
 Respondent, :  
 : **Docket No. CAA-RCRA-03-2018-0087**  
 :  
 Joint Base Anacostia-Bolling :  
 :  
 Washington, DC : Proceeding under 42 U.S.C. §§ 7413 and  
 : 7418(a) and 42 U.S.C. §§ 6928(a) and (g)  
 : and 6961(b)  
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 Facility. :  
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**FINAL ORDER**

Complainant, the Director of the Office of Enforcement, Compliance and Environmental Justice, U.S. Environmental Protection Agency, Region III, and Respondent, the United States Department of the Navy, have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22, with specific reference to 22.13(b) and 22.18(b)(2) and (3). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.


Based on the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA's October 1990 *RCRA Civil Penalty Policy*, as revised in June 2003, and EPA's *Clean Air Act Stationary Source Civil Penalty Policy* (1991), and the statutory factors set forth in Section 3008(a)(3) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6928(a)(3), and in Section 113(e) of the Clean Air Act ("CAA"), 42 U.S.C. § 7413(e).

**NOW, THEREFORE, PURSUANT TO** Section 3008(a)(1) and (g) of the RCRA, 42 U.S.C. § 6928(a)(1) and (g), Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of FIFTY-ONE THOUSAND NINE HUNDRED TWENTY dollars (\$51,920.00), in accordance with the payment provisions set forth in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.



The effective date of the attached Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

May 3, 2018  
Date

  
\_\_\_\_\_  
Joseph J. Lisa  
Regional Judicial Officer  
U.S. Environmental Protection Agency, Region III

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029**

**IN RE:**

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United States Department of the Navy,

**U.S. EPA-REGION 3-RHC**  
FILED-4MAY2018AM10:01

Respondent,

: **Docket No. CAA-RCRA-03-2018-0087**

Joint Base Anacostia-Bolling  
Washington, DC

:  
: Proceeding under 42 U.S.C. §§ 7413 and  
: 7418(a) and 42 U.S.C. §§ 6928(a) and (g)  
: and 6961(b)

Facility.

**CERTIFICATE OF SERVICE**

I certify that on the date noted below, I sent a true and correct copy of the Consent Agreement and Final Order to the following:

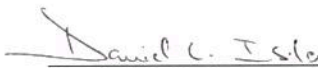
ORIGINAL AND ONE COPY FILED, VIA HAND DELIVERY

Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region III  
1650 Arch Street  
Philadelphia, PA 19103

COPY SERVED, VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Kimberly G. Fedinatz  
Assistant Counsel  
Environmental and Real Estate Naval Facilities Engineering Command (NAVFAC) Washington  
1314 Harwood St. SE, Rm. 424  
Washington Navy Yard, DC 20374

Dated: May 4, 2018

  
\_\_\_\_\_  
Daniel L. Isales  
Senior Assistant Regional Counsel  
U.S. Environmental Protection Agency  
701 Mapes Road  
Fort Meade, MD 20755-5350