

RECEIVED

12 DEC 17 AM 8:24

HEARINGS CLERK  
EPA--REGION 10

BEFORE THE  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:	)	
	)	DOCKET NO. CWA-10-2013-0001
	)	
Princess Cruise Lines, Ltd.	)	
Golden Princess	)	<b>CONSENT AGREEMENT AND FINAL ORDER</b>
	)	
Respondent	)	

---

**I. STATUTORY AUTHORITY**

1.1. This Consent Agreement and Final Order (“CAFO”) is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) by Section 309(g)(2)(B) of the Clean Water Act (“CWA”), 33 U.S.C. § 1319(g)(2)(B).

1.2. The Administrator has delegated the authority to issue the Final Order contained in Part V of this CAFO to the Regional Administrator of EPA Region 10, who has redelegated this authority to the Regional Judicial Officer in EPA Region 10.

1.3. Pursuant to Section 309(g)(1) and (g)(2)(B) of the CWA, 33 U.S.C. § 1319(g)(1) and (g)(2)(B), and in accordance with the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties,” 40 C.F.R. Part 22, EPA issues, and Princess Cruise Lines, Ltd. (“Respondent”) agrees to issuance of, the Final Order contained in Part V of this CAFO.

## **II. PRELIMINARY STATEMENT**

2.1. In accordance with 40 C.F.R. §§ 22.13(b) and 22.45(b), issuance of this CAFO commences this proceeding, which will conclude when the Final Order contained in Part V of this CAFO becomes effective.

2.2. The Director of the Office of Compliance and Enforcement, EPA Region 10 (“Complainant”) has been delegated the authority pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), to sign consent agreements between EPA and the party against whom a Class II penalty is proposed to be assessed.

2.3. Part III of this CAFO contains a concise statement of the factual and legal basis for the alleged violations of the CWA, together with the specific CWA provisions and implementing regulations that Respondent is alleged to have violated.

## **III. ALLEGATIONS**

3.1. CWA Section 301(a), 33 U.S.C. § 1311(a), prohibits the “discharge of any pollutant by any person” except as authorized by a National Pollutant Discharge Elimination System (“NPDES”) permit issued pursuant to CWA Section 402, 33 U.S.C. § 1342. Section 502(12) of the CWA, 33 U.S.C. § 1362(12), defines the term “discharge of a pollutant” to include “any addition of any pollutant to navigable waters from any point source.” “Navigable waters” are defined as “waters of the United States.” 33 U.S.C. § 1362(7).

3.2. Except for vessels exempted from NPDES permitting by Congressional legislation, discharges incidental to the normal operation of vessels are subject to the prohibition in CWA Section 301 against the discharge of pollutants without a permit. 33 U.S.C. § 1311; 73 Fed. Reg. 79,473 (Dec. 29, 2008).

3.3. On December 29, 2008, EPA announced issuance of the final NPDES Vessel General Permit (“VGP”) for discharges incidental to the normal operation of vessels for all jurisdictions except Alaska and Hawaii. 73 Fed. Reg. at 79,473, 79,477. EPA subsequently

issued the final VGP for Alaska and Hawaii, with an effective date of February 6, 2009. 74 Fed. Reg. 7042 (Feb. 12, 2009).

3.4. The VGP covers vessel discharges into waters of the United States in all states and territories, regardless of whether a state is authorized to implement other aspects of the NPDES permit program within its jurisdiction, except as otherwise excluded by Part 6 of the permit. The VGP Part 6 exclusions are not applicable here.

3.5. The VGP applies to owners and operators of non-recreational vessels that are 79 feet and greater in length. 73 Fed. Reg. at 79,477; VGP at Part 1.2.1. If the vessel is greater than 300 gross tons or has the capacity to hold or discharge more than 8 cubic meters of ballast water, it is required to submit a Notice of Intent (“NOI”) to receive VGP coverage. VGP at Part 1.5.1.

3.6. Part 5.1.1.2 of the VGP specifically prohibits the discharge of pool or spa water into waters listed in Part 12.1 of the VGP.

3.7. Subpart 12.1.2 of the VGP provides a list of National Parks and Refuges, which includes Glacier Bay National Park and Preserve.

3.8. The waters of Glacier Bay National Park and Preserve are susceptible to use in interstate and foreign commerce and are subject to the ebb and flow of the tide, and are thus “navigable waters” as defined in Section 502(7) of the CWA, 33 U.S.C. § 1362(7), and “waters of the United States” as defined in 40 C.F.R. § 122.2.

3.9. Respondent is a corporation registered in Bermuda, doing business as “Princess Cruises”, and is thus a “person” within the meaning of Section 502(5) of the CWA, 33 U.S.C. § 1362(5).

3.10. At all times relevant to this action, Respondent owned and operated the Golden Princess cruise ship vessel.

3.11. The Golden Princess cruise ship vessel is a “point source” as defined in Section 501(14) of the CWA, 33 U.S.C. § 1362(14).

3.12. On July 6, 2009, Princess Cruise Lines, Ltd. submitted an NOI to operate the Golden Princess under the VGP. The NOI identifies the Golden Princess as a large cruise ship (500+ passengers), 289.51 meters in length and weighing 108,865 gross registered tons. EPA granted VGP coverage for the Golden Princess on July 10, 2009, with unique identifier VPAAD361L.

3.13. On July 14, 2011, a new NOI to operate the Golden Princess was submitted under the owner/operator name "Princess Cruises." EPA granted VGP coverage for the Golden Princess under the new NOI on August 12, 2011, with unique identifier VPABY853L.

3.14. On May 25, 2011, a software malfunction caused the Golden Princess's pool dump valves to open. Pool water was discharged into the waters of Glacier Bay National Park and Preserve from six pools, as follows: Spa Pool (30 cubic meters), Neptunes Pool (64 cubic meters), Calypso Pool (83 cubic meters), Terrace Pool (54 cubic meters), Crew Pool (36 cubic meters), and Children's Pool (10 cubic meters). A total of approximately 277 tons of pool water were discharged, with a chlorine content of 1.2 parts per million and a pH of 7.2.

3.15. Respondent notified EPA of the discharges by phone on May 26, 2011, and in a written incident report received by EPA on May 28, 2011.

3.16. The May 25, 2011 discharges violated VGP Part 5.1.1.2 and Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

3.17. Under Section 309(g)(1) of the CWA, 33 U.S.C. § 1319(g)(1), EPA may assess an administrative penalty when EPA finds that "any person has violated section 1311...of this title." Consequently, under Section 309(g)(2)(B) of the CWA, 33 U.S.C. § 1319(g)(2)(B), and 40 C.F.R. Part 19, Respondent is liable for the administrative assessment of daily civil penalties for violations of the VGP for each day during which the violation continues, up to a maximum of \$177,500.

#### IV. CONSENT AGREEMENT

- 4.1. Respondent admits the jurisdictional allegations contained in Part III of this CAFO.
- 4.2. Respondent admits the specific allegations contained in Part III of this CAFO.
- 4.3. As required by Section 309(g)(3) of the CWA, 33 U.S.C. § 1319(g)(3), EPA has taken into account the nature, circumstances, extent, and gravity of the alleged violations as well as Respondent's economic benefit of noncompliance, ability to pay, and other relevant factors. After considering all of these factors, EPA has determined and Respondent agrees that an appropriate penalty to settle this action is \$20,000. Respondent agrees to pay the total civil penalty within thirty (30) days of the effective date of the Final Order.

4.4. Payment under this CAFO must be made by cashier's check or certified check payable to the order of "Treasurer, United States of America" and delivered via United States mail to the following address:

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

Respondent must note on the check the title and docket number of this action.

4.5. Respondent must deliver via United States mail a photocopy of the check described in Paragraph 4.5 to the Regional Hearing Clerk and EPA Region 10 at the following addresses:

Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region 10  
1200 Sixth Avenue, Suite 900, (Mail Stop ORC-158)  
Seattle, Washington 98101

Attention: Derek Schruhl

U.S. Environmental Protection Agency  
Region 10  
1200 Sixth Avenue, Suite 900, (Mail Stop OCE-133)  
Seattle, Washington 98101

4.6. If Respondent fails to pay the penalty assessed by this CAFO in full by the due date set forth in Paragraph 4.3, the entire unpaid balance of penalty and accrued interest shall become immediately due and owing. Such failure may also subject Respondent to a civil action to collect the assessed penalty under the CWA, together with interest, fees, costs, and additional penalties described below. In any collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

4.7.1. Interest. Pursuant to Section 309(g)(9) of the CWA, 33 U.S.C. § 1319(g)(9), any unpaid portion of the assessed penalty shall bear interest at a rate established by the Secretary of Treasury pursuant to 31 U.S.C. § 3717(a)(1) from the effective date of the Final Order set forth in Part V, provided however, that no interest shall be payable on any portion of the assessed penalty that is paid within thirty (30) days of the effective date of the Final Order.

4.7.2. Attorneys Fees, Collection Costs, Nonpayment Penalty. Pursuant to Section 309(g)(9) of the CWA, 33 U.S.C. § 1319(g)(9), if Respondent fails to pay on a timely basis the penalty set forth in Paragraph 4.3, Respondent shall pay (in addition to any assessed penalty and interest) attorneys fees and costs for collection proceedings and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to twenty percent (20%) of the aggregate amount of Respondent's penalties and nonpayment penalties which are unpaid as of the beginning of such quarter.

4.7. The penalty described in Paragraph 4.3, including any additional costs incurred under Paragraph 4.7, above, represents an administrative civil penalty assessed by EPA and shall not be deductible for purposes of federal taxes.

4.8. The undersigned representative of Respondent certifies that he or she is authorized to enter into the terms and conditions of this CAFO and to bind Respondent to this document.

4.9. Except as described in Subparagraph 4.7.2, above, each party shall bear its own fees and costs in bringing or defending this action.

4.10. Respondent expressly waives any right to contest the allegations and waives any right to appeal the Final Order set forth in Part V.

4.11. The provisions of this CAFO shall bind Respondent and its agents, servants, employees, successors, and assigns.

4.12. The above provisions are STIPULATED AND AGREED upon by Respondent and EPA Region 10.

FOR PRINCESS CRUISE LINES, LTD.:

Dated: 25 SEPTEMBER 2012

  
\_\_\_\_\_  
GEORGE WRIGHT  
Senior Vice President, Marine Operations

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY:

Dated: October 25, 2012

  
\_\_\_\_\_  
EDWARD J. KOWALSKI, Director  
Office of Compliance and Enforcement

## V. FINAL ORDER

5.1. The terms of the foregoing Parts I-IV are ratified and incorporated by reference into this Final Order. Respondent is ordered to comply with the terms of settlement.

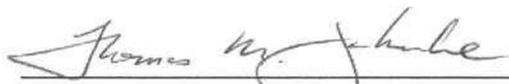
5.2. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to the CWA for the violations alleged in Part III. In accordance with 40 C.F.R. § 22.31(a), nothing in this CAFO shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This CAFO does not waive, extinguish or otherwise affect Respondent's obligations to comply with all applicable provisions of the CWA and regulations promulgated or permits issued thereunder.

5.3. In accordance with Section 309(g)(1) of the CWA, 33 U.S.C. § 1319(g)(1), and 40 C.F.R. § 22.38(b), the State of Alaska has been given the opportunity to consult with EPA regarding the assessment of the administrative civil penalty against Respondent.

5.4. Pursuant to Section 309(g)(4)(A) of the CWA, 33 U.S.C. § 1319(g)(4)(A), and 40 C.F.R. § 22.45(b), EPA has issued public notice of and provided reasonable opportunity to comment on its intent to assess an administrative penalty against Respondent. More than 40 days have elapsed since issuance of this public notice and EPA has received no petition to set aside the Consent Agreement contained herein.

5.5. This Final Order shall become effective upon filing.

SO ORDERED this 13<sup>th</sup> day of December, 2012.

  
\_\_\_\_\_  
Regional Judicial Officer  
U.S. Environmental Protection Agency  
Region 10

Certificate of Service

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER, In the Matter of : Princess Cruise Lines, Ltd., Golden Princess. Docket No.: CWA-10-2013-0001**, was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:

The undersigned certifies that a true and correct copy of the document was delivered to:

Kimberly Owens  
U.S. Environmental Protection Agency  
1200 Sixth Avenue, ORC-158  
Suite 900  
Seattle, WA 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt to:

Mona Ehrenreich  
Senior Vice President and General Counsel  
Princess Cruises  
24305 Town Center Drive  
Santa Clarita, CA 91355

DATED this 17<sup>th</sup> day of December 2012

  
Signature

Candace H. Smith  
Regional Hearing Clerk  
EPA Region 10