



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
INDUSTRIAL STORMWATER ESA

FILED

Mar 26, 2025

5:15 am

U.S. EPA REGION 4
HEARING CLERK

IN THE MATTER OF:

CAROLINA TRUCK AND TRAILER PARTS

Respondent

DOCKET NO.: CWA-04-2024-1006(b)

Expedited Settlement Agreement and Final Order
Pursuant to Clean Water Act Section 309(g)(2)(A)

NPDES Permit No. Unpermitted

The undersigned representatives of the United States Environmental Protection Agency (EPA) and Carolina Truck and Trailer Parts (Respondent) enter into this Expedited Settlement Agreement (ESA or Agreement) to resolve Respondent's civil penalty liability for allegedly discharging industrial stormwater without a permit at the Site. On August 9, 2023, representatives of the EPA inspected the Respondent's facility at 300 Myrtle Beach Hwy, Sumter, SC 29153 (Site). Observations indicated operations at the facility were allegedly responsible for discharges of industrial stormwater without a permit at the Site.

Based on information obtained during the EPA inspection, the EPA finds that: (1) Respondent, who is the owner and operator of the Site, discharged industrial stormwater from the Site without authorization by any permit issued pursuant to the Clean Water Act (Act) in violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a) as further described in the enclosed "Industrial Stormwater Non-Filter Inspection Findings and Alleged Violations Form" (Alleged Violations Form) (Enc. A); and (2) Respondent is a "person" as defined in Section 502(5) of the Act, 33 U.S.C. § 1362(5). The Alleged Violations Form is hereby incorporated into this Agreement by reference.

The EPA also finds, and Respondent admits, that the EPA has jurisdiction over this matter pursuant to Sections 301(a) and 309(g) of the Act, 33 U.S.C. §§ 1311(a) and 1319(g). Respondent neither admits nor denies the factual allegations alleged in the Alleged Violations Form or otherwise stated herein.

The EPA is authorized to enter into this Agreement under the authority vested in the Administrator by Section 309(g) of the Act, 33 U.S.C. § 1319(g), and 40 C.F.R. §§ 22.13(b) and 22.18.

The parties enter into this Agreement to settle the civil violations alleged in this Agreement for a penalty of \$10,000. Respondent consents to the assessment of this penalty and waives the right to: (1) contest the alleged violations specified in the Alleged Violations Form; (2) a hearing pursuant to Section 309(g)(2) of the Act, 33 U.S.C. § 1319(g)(2); (3) appeal the Final Order; and

(4) judicial review pursuant to CWA § 309 (g)(8), 33 U.S.C. § 1319(g)(8). The civil penalty will be due within thirty (30) days of the Effective Date of this ESA and Final Order and shall be made in accordance with the attached Expedited Settlement Agreement Payment Instructions (Payment Instructions) (Enc. B), incorporated herein by reference. Respondent agrees to bear its own costs and attorney's fees related to this ESA.

Failure by Respondent to pay the penalty assessed by this ESA and 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 309(g)(9)(B) of the Act, 33 U.S.C. § 1319(g)(9)(B). In any such collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review. Pursuant to Section 309(g)(1) of the Act, 33 U.S.C. § 1319(g)(1), and 40 C.F.R. § 22.38(b), the State of South Carolina was provided a prior opportunity to consult with the EPA regarding this matter.

By signing this Agreement, Respondent certifies that: (1) the alleged violations listed in the Alleged Violations Form have been corrected, and Respondent has submitted true and accurate documentation to the EPA of such correction; and (2) consistent with Section 162(f)(1) of the Internal Revenue Code, 26 U.S.C. § 162(f)(1), Respondent will not deduct penalties paid under this Agreement for federal tax purposes.

This Agreement, upon incorporation into the Final Order and full satisfaction by the parties, shall be a complete and full resolution of Respondent's liability for federal civil penalties for the violations of Section 301(a) of the Act alleged in the Alleged Violations Form. This Agreement does not affect the right of the EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law or to issue an administrative compliance order, e.g., for any uncorrected violations listed in the Alleged Violations Form. Nothing in this Agreement shall relieve Respondent of the duty to comply with the Act and any regulation, order, or permit issued pursuant to the Act.

In accordance with Section 309(g)(1) of the Act, 33 U.S.C. 1319(g)(1), and 40 C.F.R. § 22.38, prior to requesting that the EPA Regional Judicial Officer issue the Final Order, the EPA will provide a copy of the Agreement to the State of South Carolina for the purposes of consultation with South Carolina on the appropriateness of this Agreement. In accordance with Section 309(g)(4) of the Act, 33 U.S.C. § 1319(g)(4), and 40 C.F.R. § 22.45, the EPA will provide public notice of this Agreement and a reasonable opportunity for the public to comment on the proposed issuance of this Agreement prior to issuance of the Final Order.

1. Alleged Violations Form (Enc. A)
2. Payment Instructions (Enc. B).
3. Certificate of Service

If Respondent does not sign and return this ESA as presented within 30 days of the date of its receipt, or within an extension timeframe approved by the EPA, this proposed ESA is withdrawn without prejudice to the EPA's ability to file any other enforcement action for the violations identified in the Alleged Violations Form.

APPROVED BY THE EPA:

Keriema S. Newman
Director
Enforcement and Compliance Assurance Division

The parties consent to service of this ESA and Final Order by e-mail to the e-mail addresses provided by the parties in the Certificate of Service.

This Agreement is binding on the parties signing below. Each person signing this Agreement certifies that he or she has the authority to sign for the party who he or she represents and to bind that party to its terms. The ESA and Final Order are effective the date of filing with the Regional Hearing Clerk. Once the ESA is signed by the Regional Judicial Officer, the original ESA will be filed with the Regional Hearing Clerk. A copy of the filed ESA will be emailed to Respondent.

FINAL ORDER

Having determined that this Agreement is authorized by law, the foregoing Expedited Settlement Agreement is hereby incorporated into the Final Order.

IT IS SO ORDERED:

APPROVED BY RESPONDENT:

Name (print): Gene Baker, Jr.

Title (print): Manager

Signature:  Date: 7/1/2024

Regional Judicial Officer

Attachments:

ENCLOSURE A

Industrial Stormwater Non-Filer Inspection Findings and Alleged Violations Form

1. To accomplish the objective of the Clean Water Act (CWA), as defined in Section 101(a) of the CWA, 33 U.S.C. § 1251(a), to restore and maintain the chemical, physical, and biological integrity of the nation's waters, Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the point source discharge of pollutants into navigable waters except as in compliance with, *inter alia*, a National Pollutant Discharge Elimination System (NPDES) permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.
2. Section 402 of the CWA, 33 U.S.C. § 1342, establishes an NPDES Permit Program authorizing the U.S. Environmental Protection Agency (EPA) or authorized states to administer the NPDES Permit Program, including the issuance of NPDES permits allowing for the discharge of pollutants into navigable waters subject to specific terms and conditions. The EPA has granted the State of South Carolina through the South Carolina Department of Health and Environmental Control (SCDHEC) approval to issue NPDES permits pursuant to Section 402(b) of the CWA.
3. Carolina Truck and Trailer Parts (Respondent) owns and operates an automobile salvage yard (motor vehicle recycler) facility located at 300 Myrtle Beach Hwy, Sumter, SC 29153 (Facility). The Facility is identified by Standard Industrial Classification (SIC) Code 5015.
4. Pursuant to Section 402(p)(2)(B) of the CWA, 33 U.S.C. § 1342(p)(2)(B), an NPDES permit is required for "a [stormwater] discharge associated with industrial activity," which "means the discharge from any conveyance that is used for collecting and conveying storm water and that is directly related to manufacturing, processing or raw materials storage at an industrial plant." 40 C.F.R. § 122.26(b)(14).
5. Pursuant to 40 C.F.R. § 122.26(b)(14)(vi), "Facilities involved in the recycling of materials, including metal scrapyards, battery reclaimers, salvage yards, and automobile junkyards, including but limited to those classified as Standard Industrial Classification 5015 and 5093" are considered to be engaging in "industrial activity" for purposes of 40 C.F.R. 122.26(b)(14).
6. Section 402(p)(2)(B) of the CWA, 33 U.S.C. § 1342(p)(2)(B), and its implementing regulations at 40 C.F.R. § 122.26(b)(14)(vi), require that an industrial facility discharging stormwater into navigable waters of the United States must obtain an NPDES permit.
7. On August 09, 2023, representatives of the EPA performed a Compliance Stormwater Evaluation Inspection (CSWEI) at the Facility to evaluate the Respondent's compliance with the requirements of Section 301(a) of the CWA, 33 U.S.C. § 1311(a); and the regulations promulgated thereunder at 40 C.F.R. § 122.26.
8. On October 16, 2023, the EPA issued an Inspection Report to the Respondent. During the CSWEI, the EPA inspectors observed the following:

- A. Trucks arrive via truck. Trucks are either sold wholesale or dismantled for the purpose of selling secondhand parts. Both trucks and dismantled truck parts are stored outdoors in the yard. Trucks are waiting to have parts pulled based on customer needs. Some of the trucks stored in the yard were drained, and some still contained fluids. The Facility had outdoor industrial processes, including but not limited to, loading, and unloading operations, material storage, and waste material storage activities with potential exposure and contribution to stormwater contamination.
 - B. The Facility had stormwater runoff which discharges offsite into an excavated ditch (of varying depths) that surrounds the perimeter of the site. An additional ditch runs through the yard and flows generally south to connect to the perimeter ditch. The perimeter ditch connects to the roadside drainage system on the western side of the site's driveway. As discussed below, the roadside drainage system discharges into an unnamed tributary of Turkey Creek and eventually the Pocotaligo River.
 - C. Respondent's industrial activity at the Facility, which includes an automobile salvage yard (motor vehicle recycler), is classified under SIC Code 5015. Facilities operating under SIC Code 5015, industrial Sector M, automobile salvage yards, are required to obtain a general NPDES permit coverage for their stormwater discharges.
 - D. The Respondent did not have an NPDES permit at the time of the CSWEI and did not submit a Notice of Intent for permit coverage until after the violations alleged in this action occurred.
9. Section 402(p)(2)(B) of the CWA, 33 U.S.C. § 1342(p)(2)(B), and its implementing regulations at 40 C.F.R. § 122.26(b)(14)(vi), as referenced above, require that an industrial facility discharging stormwater into navigable waters of the United States must obtain an NPDES permit. The EPA's industrial stormwater guidance anticipates potential discharges from an industrial site to occur with rain events greater than 0.1 inch. In the EPA Supplemental Guidance to the 1995 Interim Clean Water Act Settlement Penalty Policy for Violations of the Industrial Stormwater Requirements, 0.5 inches during a 24-hour period is used as the general benchmark for likely stormwater runoff to result in a discharge. According to rain data available for this area from the National Oceanic and Atmospheric Administration National Climatic Data Center, fifty-nine (59) months during the period of August 2018 to August 2023 had one or more daily rain events greater than 0.5 inches during a 24-hour period. Due to the hydrology of the Facility, in which significant portions of the site are covered in impervious surfaces and/or tightly packed material, the EPA has determined that from August 2018 to August 2023, stormwater associated with Respondent's industrial activities discharged offsite into an unnamed tributary of Turkey Creek in a southwestern direction. Turkey Creek drains to the southwest where it joins the Pocotaligo River. The Pocotaligo River is situated approximately 5 miles from the Facility.
10. Section 502(7) of the CWA, 33 U.S.C. § 1362(7), defines "navigable waters" as "[t]he waters of the United States, including the territorial seas."

11. Pocotaligo River is a traditionally navigable water of the United States, and a “navigable water,” or “water of the United States,” as defined by Section 502(7) of the CWA, 33 U.S.C. § 1362(7) and its implementing regulation 40 C.F.R. § 230.3(s) (2014).
12. The unnamed tributary of Turkey Creek and Turkey Creek, as relatively permanent or continuously flowing tributaries to the Pocotaligo River, are also “waters of the United States” within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7) and 40 C.F.R. § 230.3(s) (2014). Respondent has violated Section 301(a) of the CWA, 33 U.S.C. § 1311(a), by discharging stormwater from the Facility without proper authorization into waters of the United States for 59 months.

Enclosure B

Expedited Settlement Agreement and Final Order Payment Instructions

Payment shall be in a single payment, due no later than 30 calendar days from the effective date of the Final Order. If the due date for the payment falls on a weekend or federal holiday, then the due date is the next business day. The date the payment is made is considered to be the date processed, as described below. Payment must be received by 11:00 a.m. Eastern Standard Time to be considered as received that day.

The payment shall be made by remitting a check or making a wire transfer or on-line payment. The check or other payment shall:

- designate the name and docket number of this case, and
- be payable to “Treasurer, United States of America.”

The payment shall be remitted as follows:

If remitted by standard U.S. Postal Service delivery:

U.S. Environmental Protection Agency
P.O. Box 979078
St. Louis, Missouri 63197-9000

If remitted by non-standard mail delivery (e.g., FedEx, DHL, UPS, USPS certified, registered, etc.):

U.S. Environmental Protection Agency
Government Lockbox 979078
3180 Rider Trail S.
Earth City, Missouri 63045

If remitted by wire transfer: Any wire transfer must be sent directly to the Federal Reserve Bank in New York City using the following information:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, New York 10045
Beneficiary: US Environmental Protection Agency

If remitted through the Automated Clearing House (ACH) for receiving US currency:

U.S. Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection
Agency CTX Format Transaction Code 22 – checking

Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, Maryland 20737
Remittance Express (REX): 1-866-234-5681

If remitted on-line with a debit card or credit card: No user name, password, or account number is necessary for this option. On-line payment can be accessed via www.pay.gov, entering 1.1 in the form search box on the left side of the screen, opening the form, and following the directions on the screen.

At the time of payment, a copy of the check (or notification of other type of payment) shall also be sent by email to:

Regional Hearing Clerk
U.S. EPA Region 4
Office of Regional Counsel
R4_Regional_Hearing_Clerk@epa.gov

and
Jeremy Judd
EPA Region 4
Judd.Jeremy@epa.gov

CERTIFICATE OF SERVICE

I hereby certify that the foregoing "Expedited Settlement Agreement" and "Final Order," in the Matter of **Carolina Truck and Trailer Parts, Docket Number CWA-04-2024-1006(b)** were filed and copies of the same were emailed to the parties as indicated below.

Via email to all parties at the following email addresses:

To Respondent: Gene Baker, Jr., Manager
Carolina Truck and Trailer Parts
300 Myrtle Beach Hwy, Sumter, SC 29153
Baker1artist@yahoo.com
carolinatruckparts@gmail.com
803-968-5067

To EPA: Jeremy Judd, Environmental Engineer
judd.jeremy@epa.gov
404-562-9505

Tyler Levy Sniff, Attorney-Advisor
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