

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 Broadway
New York, NY 10007-1866

U.S. Environmental
Protection Agency-Reg 2

2015 OCT 19 AM 7:36

REGIONAL HEARING
CLERK

IN THE MATTER OF:

Ducommun Incorporated, d/b/a
Ducommun AeroStructures New York, Inc.
2 Flint Mine Road
Coxsackie, NY 12051

Respondents

Proceeding pursuant to §309(g) of the
Clean Water Act, 33 U.S.C. §1319(g)

**Administrative Complaint
Findings of Violation, Notice of Proposed
Assessment of a Civil Penalty, and Notice of
Opportunity to Request a Hearing**

**Proceeding to Assess Class I
Civil Penalty**

Docket No. CWA-02-2016-3303

I. PRELIMINARY STATEMENT

1. This Administrative Complaint, Findings of Violation, Notice of Proposed Assessment of a Civil Penalty, and Notice of Opportunity to Request a Hearing ("Complaint") is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 309(g)(2)(A) of the Clean Water Act ("Act"), 33 U.S.C. §1319(g)(2)(A). The Administrator has delegated this authority to the Regional Administrator of EPA, Region 2, who in turn has delegated it to the Director, Division of Enforcement and Compliance Assistance ("DECA") of EPA, Region 2 ("Complainant").
2. Pursuant to Section 309(g)(2)(A) of the Act, and in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits" ("CROP"), 40 C.F.R. Part 22, a copy of which is attached, Complainant hereby requests that the Regional Administrator assess a civil penalty against Ducommun AeroStructures New York, Inc. ("Respondents") for its violations of federal pretreatment standards and requirements promulgated pursuant to Section 307(b) of the Act, 33 U.S.C. §1317(b), and enforceable pursuant to Section 307(d) of the Act, 33 U.S.C. §1317(d).

II. APPLICABLE LEGAL REQUIREMENTS

1. Section 301(a) of the Act, 33 U.S.C. §1311(a), prohibits the discharge of any pollutant by any person from a point source into navigable waters of the United States, except in compliance with, inter alia, Section 402 of the Act, 33 U.S.C. §1342.
2. Section 301(b)(1)(A) of the Act, 33 U.S.C. §1311(b)(1)(A), provides that effluent limits for point sources, other than publicly owned treatment works ("POTW"), (i) shall require the application of the best practicable control technology currently available as defined by the Administrator pursuant to Section 304(b) of the Act, 33 U.S.C. §1314(b), or (ii) shall, in the case of a discharge into a publicly owned treatment works that meets the requirements of

Section 301(b)(1)(B), require compliance with applicable pretreatment requirements and any requirements under Section 307 of the Act, 33 U.S.C. §1317.

3. Section 306(a)(3) of the Act, 33 U.S.C. §1316(a)(3), defines “source” as any building, structure, facility, or installation from which there is or may be the discharge of pollutants. Section 306(a)(4) of the Act, 33 U.S.C. §1316(a)(4), defines “owner or operator” as any person who owns, leases, operates, controls, or supervises a source.
4. Section 306(b) of the Act, 33 U.S.C. §1316(b), provides that the EPA Administrator must identify categories of sources, including metal finishing, and propose, publish, and revise, when needed, regulations establishing Federal standards of performance for these categories.
5. Pursuant to Section 307 of the Act, 33 U.S.C. §1317, the Administrator of EPA promulgated the General Pretreatment Regulations for Existing and New Sources of Pollution to control pollutants which pass through or interfere with treatment processes in POTWs or which may contaminate sewage sludge, at 40 C.F.R. Part 403 (“General Pretreatment Regulations”).
6. Pursuant to Section 307(b) of the Act, 33 U.S.C. §1317(b), the Administrator of EPA promulgated “Categorical Pretreatment Standards” for introduction of pollutants into treatment works, which are publicly owned, for those pollutants.
7. Section 402(b)(8) of the Act, 33 U.S.C. §1342, along with Section 307(b) of the Act, 33 U.S.C. §1317(b), establishes the National Pretreatment Program to regulate discharges from industries to POTWs as a component of the National Pollutant Discharge and Elimination System (“NPDES”) Permitting Program. The National Pretreatment Program requires non-domestic dischargers to treat or control pollutants in their wastewater before discharging to POTWs. EPA has chosen to promulgate pretreatment standard regulations pursuant to Sections 301(b) and 304(b) of the Act, 33 U.S.C. §§1311(b) and 1314(b).
8. Section 307(d) of the Act, 33 U.S.C. §1317(d), prohibits the owner or operator of any source from discharging pollutants into a publicly owned treatment works (“POTW”) in violation of the applicable pretreatment standards for that source.
9. Pursuant to 40 C.F.R. §403.3(q), the term “Publicly Owned Treatment Works or POTW” means a treatment works as defined by Section 212 of the Act [as, among other things, any devices, methods, and/or systems that, at a minimum, store, treat, or dispose of municipal waste or industrial wastes, including waste in combined storm water and sanitary sewer systems], which is owned by a State or municipality.
10. Pursuant to 40 C.F.R. §403.3(d), the term “Approved POTW Pretreatment Program or Program” means a program administered by a POTW that meets the criteria established in the General Pretreatment Regulations and which has been approved by a Regional Administrator or State Director in accordance with 40 C.F.R. §403.11 of the General Pretreatment Regulations.
11. Pursuant to 40 C.F.R. §403.3(f), the term “Control Authority” refers to the Approval Authority if the Submission has not been approved. Pursuant to 40 C.F.R. §403.3(c), the term “Approval Authority” means the appropriate Regional Administrator in a non-NPDES State or NPDES State without an approved State pretreatment program. Pursuant to 40 C.F.R. §403.3(w), the

term “Submission” means a request by a POTW for approval of a Pretreatment Program to the EPA or a request to the EPA by an NPDES State for approval of its State pretreatment program.

12. Pursuant to 40 C.F.R. §403.3(i), the term “Indirect Discharge” or “Discharge” means the introduction of pollutants into a POTW from any non-domestic source regulated under Section 307(b), (c) or (d) of the Act. Pursuant to 40 C.F.R. §403.3(j), the term “Industrial User” (“IU”) means a source of Indirect Discharge.
13. “Person” is defined by Section 502(5) of the Act, 33 U.S.C. §1362(5), to include, among other things, an individual, corporation, partnership, association or municipality.
14. “Pollutant” is defined by Section 502(6) of the Act, 33 U.S.C. §1362(6), to include, among other things, solid waste, dredged spoil, rock, sand, cellar dirt, sewage, sewage sludge and industrial, municipal and agricultural waste discharged into water.
15. “Discharge of a pollutant” is defined by Section 502(12) of the Act, 33 U.S.C. §1362(12), to include any addition of any pollutant to navigable waters from any point source.
16. “Point source” is defined by Section 502(14) of the Act, 33 U.S.C. §1362(14), as any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, or vessel, from which pollutants are or may be discharged.
17. “Navigable waters” is defined by Section 502(7) of the Act, 33 U.S.C. §1362(7), to include the waters of the United States.
18. Section 308(a)(A) of the Act, 33 U.S.C. §1318(a)(A), provides, in relevant part, that the Administrator of EPA may require the owner or operator of any point source to, among other things: maintain such records; make such reports; install, use and monitor such equipment; sample such effluents; and provide such other information as may reasonably be required in order to carry out Section 402 of the Act, 33 U.S.C. §1342.
19. 40 C.F.R. §403.12(b) requires that an IU subject to categorical Pretreatment Standards and discharging into a POTW shall submit to the Control Authority a baseline report or baseline monitoring report (“BMR”), which includes, but is not limited to, flow measurement and measurement of pollutants. Specifically, 40 C.F.R. §403.12(b)(5) indicates that, at least for the measurement of pollutants, the IU shall submit the results of sampling and analysis identifying the nature and concentration (or mass) of regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentration (or mass) shall be reported.
20. 40 C.F.R. §403.12(b)(6) requires that a statement be provided, which has been reviewed by an authorized representative of the IU and certified to by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O and M) and/or additional pretreatment is required for the IU to meet the Pretreatment Standards and Requirements.
21. 40 C.F.R. §403.12(d) requires that within 90 days following the date for final compliance with the applicable categorical Pretreatment Standards, any IU subject to Pretreatment Standards and Requirements shall submit to the Control Authority a report containing the information

described in 40 C.F.R. §403.12(b)(4-6). For IUs subject to the equivalent mass or concentration limits established by the Control Authority in accordance with the procedures in 40 C.F.R. §403.6(c), this report shall contain a reasonable measure of the User's long term production rate. For all other Industrial Users subject to categorical Pretreatment Standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the IU's actual production during the appropriate sampling period.

22. 40 C.F.R. §403.12(e) requires an IU subject to a categorical pretreatment standard to submit to the Control Authority Periodic Reports on Continued Compliance. These Periodic Reports on Continued Compliance, due during the months of June and December of each year, must, among other things, indicate the nature and concentration of those pollutants in the effluent that are subject to the applicable categorical Pretreatment Standards.
23. 40 C.F.R. §403.12(g)(2) provides that if sampling performed by an IU indicates a violation, the IU shall notify the Control Authority within 24 hours of becoming aware of the violation. The Section also provides that the IU shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Control Authority within 30 days after becoming aware of the violation.
24. Pursuant to Section 307(b) of the Act, 33 U.S.C. §1317, the EPA Administrator promulgated "Categorical Pretreatment Standards" for the Metal Finishing Point Source Category (Pretreatment Standards for Existing Sources), 40 C.F.R. Part 433 ("Metal Finishing Standards"). Specifically, the Pretreatment Standards for New and Existing Sources were effective on August 29, 1983.
25. Pursuant to 40 C.F.R. §433.17(a), except as provided in 40 C.F.R. §403.7, any new source subject to the Metal Finishing Standards that introduces pollutants into a POTW must comply with General Pretreatment Regulations as well as Metal Finishing Standards and comply with the pretreatment standard limits as set forth in 40 C.F.R. §433.17(a), which includes the maximum limit for any one (1) day and monthly average limit for pollutants such as, but not limited to, copper and chromium.
25. Section 309(a) of the Act, 33 U.S.C. §1319(a) authorizes the Administrator to issue an order requiring compliance or commence a civil action when any person is found to be in violation of 301 of the Act, 33 U.S.C. §1311.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW/FINDINGS OF VIOLATION

1. Ducommun AeroStructures New York, Inc. is a subsidiary of Ducommun Incorporated, with its primary place of business located in Carson, California, ("Respondents"). Ducommun AeroStructures New York, Inc. owns and operates a facility in the State of New York. Ducommun AeroStructures New York, Inc. is a "person" within the meaning of Section 502(5) of the Act, 33 U.S.C. §1362(5).
2. At all times relevant to this Administrative Complaint, Respondents owned and/or operated a facility located at 2 Flint Mine Road, Coxsackie, NY (the "Facility"), where Respondents operate, among other things, metal finishing operations.
3. The Respondents have discharged wastewater from the facility's manufacturing processes into the Township of Coxsackie Wastewater Treatment Plant, which is a "publicly owned

treatment works” within the meaning of Section 212(2)(a) of the Act, 33 U.S.C. §1292(2)(a). Wastewater or process wastewater is a “pollutant” within the meaning of Section 502(6) of the Act, 33 U.S.C. §1362(6).

4. At all times relevant to this Complaint, the facility was a “source” within the meaning of Section 306(a)(3) of the Act, 33 U.S.C. §1316(a)(3) and an “Industrial User” (“IU”) within the meaning of 40 C.F.R. 403.3(j).
5. As a non-domestic user of a POTW, the Respondents are required to comply with the requirements and standards promulgated by EPA pursuant to Sections 307 and 308 of the CWA, 33 U.S.C. §§1317 and 1318, including the General Pretreatment Regulations found at 40 C.F.R. Part 403.
6. Respondents’ manufacturing activities fall within the scope of Metal Finishing Standards, as it is set out in 40 C.F.R. §433.17. Respondents’ discharges of process wastewater to the Township of Coxsackie Wastewater Treatment Plant are subject to the Categorical Pretreatment Standards for the Metal Finishing Standards set forth at 40 C.F.R. Part 433.
7. Section 307(d) of the Act, 33 U.S.C. §1317(d), prohibits the owner or operator of any source from discharging pollutants into a POTW in violation of the applicable pretreatment standards for that source.
8. The Township of Coxsackie, New York does not have an “Approved Pretreatment Program” within the meaning of 40 C.F.R. §403.3(d). The State of New York is not approved to operate a State pretreatment program in New York in accordance with 40 C.F.R. §403.10. Therefore, pursuant to 40 C.F.R. §403.12(a), EPA, which is the Approval Authority, is the “Control Authority.”
9. Pursuant to Sections 307(b) and 308(a) of the Act, 33 U.S.C. §§1317(b) and 1318(a), the Administrator of EPA promulgated 40 C.F.R. §403.12(e) which requires an IU subject to a categorical pretreatment standard to submit to the “Control Authority” (defined at 40 C.F.R. §403.12(a)) Periodic Reports on Continued Compliance (“Periodic Reports”). These Periodic Reports, due during the months of June and December of each year, must, among other things, indicate the nature and concentration of those pollutants in the effluent subject to the applicable Categorical Pretreatment Standards.
10. The Facility is subject to 40 C.F.R. §§403.12(b), (d), and (e), and was required to submit the Periodic Reports to EPA by June 30 and December 31 of every year thereafter.
11. In a letter dated January 21, 2009, the Respondents submitted a letter to EPA regarding notice of potential non-compliance with wastewater discharge requirements and stated that “Ducommun Aerostructures, Inc. (“Ducommun”), is the new owner and sole shareholder of DynaBil Acquisition, Inc. (“Dynabil”), parent company of Dynabil Industries, Inc., which operates a manufacturing facility at 2 Flint Mine Road in Coxsackie, New York (“Facility”). Ducommun purchased the outstanding stock of Dynabil on December 22, 2008.” This letter further stated “Ducommun intends to segregate the wastewaters, sample and test for those parameters regulated by the EPA under the metal finishing standards and track daily flow rates for each potentially regulated discharge.” It also stated “Analysis of the data is anticipated to be completed in March 2009. Depending on the results, Ducommun aims to complete any

remedial measures necessary to assure compliance with the categorical pretreatment standards for metal finishing operations by April 2009.” In addition, in this letter Ducommun stated that it will prepare a baseline monitoring report which has not been submitted to EPA.

12. On May 14, 2014, EPA issued a Request for Information (RFI) pursuant to Section 308 of the Clean Water Act, Docket No. CWA-IR-14-015 letter, to Respondents, requesting it to submit, among other information, all Periodic Reports on Continued Compliance due during the months of June and December and results of sampling and analysis identifying the nature and concentration of regulated pollutants in each discharge for the period of January 2009 to present.
13. On June 23, 2014, EPA received the response to the above RFI letter, as attachments to a letter dated June 17, 2014 from Respondents. The Respondents submitted lab results of process wastewater discharged into the Township of Coxsackie sewer system for samples collected on February 4, 2009, June 22-23, 2011 and June 16, 2014. The sample collected on June 22-23, 2011 was a split sample collected by EPA as part of a compliance sampling inspection.
14. On April 28, 2015, Alia Roufaeal, a representative from EPA, was contacted via telephone by Stephen Czarnecki, a representative from Respondents, who was informed by EPA inspectors, who were performing compliance sampling inspection at the Respondents’ metal finishing facility, that Respondents have not been submitting reports to EPA. Mr. Czarnecki informed Ms. Roufaeal that Respondents have not been sampling and submitting reports to EPA and he submitted to EPA via electronic mail laboratory results for samples collected on October 10, 2014 and April 16, 2015. On June 17, 2015, EPA received a letter dated June 12, 2015 from Respondents which stated “Ducommun Aerostructures, Inc. has not submitted Process Wastewater Sampling results since June of 2014 due to miscommunication within the company”. This letter further stated “Previous sampling was done intermittently over the previous years until the POTW asked that no further results be sent to them”. On July 1, 2015, EPA received Respondents’ Periodic Report on Continued Compliance due during the month of June 2015, which was attached to a letter dated June 24, 2015 and this letter repeated the same information regarding previous sampling as that in the June 12, 2015 letter. EPA reviewed all the information submitted and determined that the Respondents have not been submitting Periodic Reports on Continued Compliance to EPA since January 2009. Also, EPA determined that the Respondents have not been sampling for the parameters regulated as per the Pretreatment Regulations since June 2009 (except for the dates referenced above). In addition, EPA determined that the Respondents exceeded its daily maximum and average monthly limits as required in 40 C.F.R. §433.17 for chromium, copper and zinc in a sample collected on February 4, 2009 and failed to meet the minimum standard limit of 5.0 standard units for pH in samples collected on February 4, 2009.
15. Based upon the Paragraphs above, Respondents have violated federal pretreatment requirements in violation of the Act and its implementing regulations. Respondents are in violation of Sections 307 and 308 of the Act for failing to meet the General Pretreatment Regulations and Metal Finishing Standards. Specifically, Respondents are in violation by failing to (1) submit the required Periodic Reports for December 31, 2010, June 30, 2011, December 31, 2011, June 30, 2012, December 31, 2012, June 30, 2013, December 31, 2013, June 30, 2014 and December 31, 2014 as required by 40 C.F.R. §403.12(e); and (2) sample for the parameters regulated as per the Pretreatment Regulations since at least December 2010 (except for June 16, 2014 and October 10, 2014) as required by 40 C.F.R. §403.12(b) and (e). Thus, based on the Findings cited above,

Respondents are in violation of Sections 307 and 308 of the Act, 33 U.S.C. §§1317 and 1318, and the Respondents are liable for the administrative assessment of civil penalties in an amount not to exceed \$16,000 per violation, up to a maximum of \$37,500.

IV. NOTICE OF PROPOSED ORDER ASSESSING A CIVIL PENALTY

Based on the foregoing Findings of Violation, and pursuant to the authority of Section 309(g) of the Act, 33 U.S.C. §1319(g), and the Debt Collection Improvement Act of 1996, EPA Region 2 hereby proposes to issue a Final Order Assessing Administrative Penalties ("Final Order") to Respondents assessing penalty of **\$37,160**. EPA determined the proposed penalty after taking into account the applicable factors identified in Section 309(g)(3) of the Act, 33 U.S.C. §1319(g)(3). EPA has taken account of the nature, circumstances, extent and gravity of the violation (or violations), and Respondents' prior compliance history, degree of culpability, economic benefit or savings accruing to Respondents by virtue of the violations, and Respondents' ability to pay the proposed penalty. Based on the Findings set forth above, the Respondents have been found to have violated the Act in fifteen (15) instances. EPA may issue the Final Order Assessing Administrative Penalties thirty (30) days after Respondents' receipt of this Notice, unless Respondents file an Answer to the Complaint within that time and requests a Hearing on this Notice pursuant to the following section.

V. PROCEDURES GOVERNING THIS ADMINISTRATIVE ACTION

The rules of procedure governing this civil administrative litigation have been set forth in the CROP, 40 C.F.R. Part 22. A copy of these rules accompanies this Complaint.

A. Answering The Complaint

Where Respondents intend to contest any material fact upon which the Complaint is based, to contend that the proposed penalty is inappropriate or to contend that Respondents are entitled to judgment as a matter of law, Respondents must file with the Regional Hearing Clerk of EPA, Region 2, both an original and one copy of a written Answer to the Complaint, and such Answer must be filed within thirty (30) days after service of the Complaint. 40 C.F.R. §22.15(a). The address of the Regional Hearing Clerk of EPA, Region 2, is:

**Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th floor
New York, NY 10007-1866**

Respondents shall also then serve one copy of the Answer to the Complaint upon Complainant and any other party to the action. 40 C.F.R. §22.15(a). Respondents' Answer to the Complaint must clearly and directly admit, deny, or explain each of the factual allegations that are contained in the Complaint and with regard to which the Respondents have any knowledge. 40 C.F.R. §22.15(b). Where Respondents lack knowledge of a particular factual allegation and so states in the Answer, the allegation is deemed denied. 40 C.F.R. §22.15(b). The Answer shall also set forth: (1) the circumstances or arguments that are alleged to constitute the grounds of defense, (2) the facts that Respondents dispute (and thus intend to place at issue in the proceeding), (3) the basis for opposing the proposed relief and (4) whether Respondents request a Hearing. 40 C.F.R. §22.15(b).

Respondents' failure to affirmatively raise in the Answer facts that constitute or that might constitute the grounds of a defense may preclude Respondents, at a subsequent stage in this proceeding, from raising such facts and/or from having such facts admitted into evidence at a Hearing.

B. Opportunity to Request a Hearing

If requested by Respondents in its Answer, a Hearing upon the issues raised by the Complaint and Answer may be held. 40 C.F.R. §22.15(c). If however, Respondents do not request a Hearing, the Presiding Officer (as defined in 40 C.F.R. §22.3) may hold a Hearing if the Answer raises issues appropriate for adjudication. 40 C.F.R. §22.15(c).

Any Hearing in this proceeding will be held at a location determined in accordance with 40 C.F.R. §22.21(d). A Hearing of this matter will be conducted in accordance with the applicable provisions of the Administrative Procedure Act, 5 U.S.C. §§551-59, and the procedures set forth in Subpart D of the CROP, at 40 C.F.R. §§22.21-22.26.

Should Respondents request a Hearing on this proposed penalty assessment, members of the public to whom EPA is obligated to give notice of this proposed action, will have a right under Section 309(g)(4)(B) of the Act, 33 U.S.C. §1319(g)(4)(B), to be heard and to present evidence on the appropriateness of the penalty assessment. Should Respondents not request a Hearing, EPA will issue a Final Order, and only members of the public who submit timely comment on this proposal will have an additional thirty (30) days to petition EPA to set aside the Final Order and to hold a Hearing thereon. EPA will grant the petition and will hold a Hearing only if the petitioner's evidence is material and was not considered by EPA in the issuance of the Final Order.

C. Failure to Answer

If Respondents fail in any Answer to admit, deny, or explain any material factual allegation contained in the Complaint, such failure constitutes an admission of the allegation. 40 C.F.R. §22.15(d). If Respondents fail to file a timely Answer to the Complaint [i.e. not in accordance with the 30-day period set forth in 40 C.F.R. §22.15(a)], Respondents may be found in default upon motion. 40 C.F.R. §22.17(a). Default by Respondents constitute, for purposes of the pending proceeding only, an admission of all facts alleged in the Complaint and a waiver of Respondents' right to contest such factual allegations. 40 C.F.R. §22.17(a). Following a default by Respondents for a failure to timely file an Answer to the Complaint, any order issued therefore shall be issued pursuant to 40 C.F.R. §22.17(c).

Any penalty assessed in the default order shall become due and payable by Respondents without further proceedings thirty (30) days after the Default Order becomes final pursuant to 40 C.F.R. §22.27(c). 40 C.F.R. §22.17(d). If necessary, EPA may then seek to enforce such Final Order of Default against Respondents, and to collect the assessed penalty amount, in federal court.

VI. INFORMAL SETTLEMENT CONFERENCE

Regardless of whether Respondents request a formal Hearing, EPA encourages settlement of this proceeding consistent with the provisions of the Act and its applicable regulations. 40 C.F.R. §22.18(b). At an informal conference with a representative(s) of Complainant, Respondents may comment on the charges made in this Complaint and Respondents may also provide whatever additional information it believes to be relevant to the disposition of this matter, including: (1) actions

Respondents have taken to correct any or all of the violations herein alleged, (2) any information relevant to Complainant's calculation of the proposed penalty, (3) the effect the proposed penalty would have on Respondents' ability to continue in business and/or (4) any other special facts or circumstances Respondents wish to raise.

Complainant has the authority to modify the amount of the proposed penalty, where appropriate, in response to any relevant information previously not known to Complainant that demonstrates that any of the findings herein are without merit, or that the proposed penalty is not warranted. Respondents are referred to 40 C.F.R. §22.18.

Any request for an informal conference or any questions that Respondents may have regarding this Complaint should be directed to:

Melva J. Hayden, Esq.
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
Telephone (212) 637-3230

The parties may engage in settlement discussions regardless of whether Respondents have requested a Hearing. 40 C.F.R. §22.18(b)(1). Respondents' requesting a formal Hearing does not prevent Respondents from also requesting an informal settlement conference; the informal conference procedure may be pursued simultaneously with the formal adjudicatory hearing procedure. A request for an informal settlement conference constitutes neither an admission nor a denial of any of the matters alleged in the Complaint.

A request for an informal settlement conference does not affect Respondents' obligation to file a timely Answer to the Complaint pursuant to 40 C.F.R. §22.15. Note that no penalty reduction will be made simply because an informal settlement conference is held.

Any settlement that may be reached as a result of an informal settlement conference shall be embodied in a written Consent Agreement. 40 C.F.R. §22.18(b)(2). In accepting the Consent Agreement, Respondents waive any right to contest the allegations in the Complaint and waives any right to appeal the Final Order that is to accompany the Consent Agreement. 40 C.F.R. §22.18(b)(2). In order to conclude the proceeding, a Final Order ratifying the parties' agreement to settle will be executed. 40 C.F.R. §22.18(b)(3).

Entering into a settlement through the signing of such Consent Agreement and complying with the terms and conditions set forth in such Consent Agreement and Final Order terminates this administrative litigation and these civil proceedings against Respondents (note that a new enforcement action may be initiated based on continued non-compliance). Entering into a settlement agreement does not extinguish, waive, satisfy or otherwise affect Respondents' obligation and responsibility to comply with all applicable statutory and regulatory requirements, and to maintain such compliance.

VII. RESOLUTION OF THIS PROCEEDING WITHOUT HEARING OR CONFERENCE

Instead of filing an Answer, Respondents may choose to pay the total amount of the proposed penalty, **\$ 37,160**, within 30 days after receipt of the Complaint, provided that Respondents file with the Regional Hearing Clerk, Region 2 (at the address noted above), a copy of the check or other instrument of payment. 40 C.F.R. §22.18(a). A copy of the check or other instrument of payment should be provided to the EPA Attorney identified in Section VI above. Payment of the penalty assessed should be made by sending a cashier's or certified check payable to the "Treasurer, United States of America", in the full amount of the penalty assessed in this Complaint to the following addressee:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000
Docket No. CWA-02-2016-3303

Wire transfers 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, NY 10045

Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency".

Pursuant to 40 C.F.R. §22.18(a)(3), if Respondents elect to pay the full amount of the penalty proposed in the Complaint within thirty (30) days of receiving the Complaint, then, upon EPA's receipt of such payment, the Regional Administrator of EPA, Region 2 (or, if designated, the Regional Judicial Officer), shall issue a Final Order pursuant to 40 C.F.R. §22.18(a)(3). In accordance with 40 C.F.R. §22.45(c)(3), no Final Order shall be issued until at least ten (10) days after the close of the comment period on this Complaint. Issuance of a Final Order terminates this administrative litigation and the civil proceedings arising out of the allegations made in the Complaint (note that a new enforcement action may be initiated based on continued non-compliance). Further, pursuant to 40 C.F.R. §22.18(a)(3), the making of such payment by Respondents shall constitute a waiver of Respondents' right both to contest the allegations made in the Complaint and to appeal said Final Order to federal court. Such payment does not extinguish, waive, satisfy or otherwise affect Respondents' obligation and responsibility to comply with all applicable statutory and regulatory requirements, and to maintain such compliance, and EPA may initiate a new enforcement action based on evidence of new or continued violations.

VIII. FILING OF DOCUMENTS

The Answer and any Hearing Request and all subsequent documents filed in this action should be sent to:

Regional Hearing Clerk
U.S. Environmental Protection Agency
290 Broadway - 16th Floor (Room 1631)
New York, New York 10007-1866

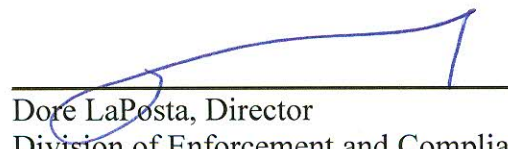
A copy of the Answer, any Hearing Request and all subsequent documents filed in this action shall be sent to:

Melva J. Hayden, Esq., Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency
290 Broadway - 16th Floor
New York, New York 10007- 1866
(212) 637-3230

IX. GENERAL PROVISIONS

1. Respondents have a right to be represented by an attorney at any stage of these proceedings.
2. This Complaint does not constitute a waiver, suspension or modification of the requirements of the Act, regulations promulgated thereunder, or any applicable permit.
3. Neither assessment nor payment of an administrative civil penalty pursuant to Section 309(g) of the Act, 33 U.S.C. §1319(g), will affect Respondents' continuing obligation to comply with the Act, and with any separate Compliance Order issued under Section 309(a) of the Act, 33 U.S.C. §1319(a), for the violations alleged herein.

ISSUED THIS 15th DAY OF OCTOBER, 2015.



Dore LaPosta, Director
Division of Enforcement and Compliance Assistance
U.S. EPA - Region 2
290 Broadway
New York, New York 10007-1866

To: Mr. Joel H. Benkie, President and Chief Operating Officer
Ducommun Incorporated, d/b/a
Ducommun AeroStructures New York, Inc.
23301 Wilmington Avenue
Carson, CA 90745-6209

CWA-02-2016-3303

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 Broadway
New York, NY 10007-1866

IN THE MATTER OF:

**Ducommun Incorporated, d/b/a Ducommun
AeroStructures New York, Inc.
2 Flint Mine Road
Coxsackie, NY 12051**

Respondents

Proceeding pursuant to §309(g) of the
Clean Water Act, 33 U.S.C. §1319(g)

**Administrative Complaint
Findings of Violation, Notice of
Proposed Assessment of a Civil Penalty,
and Notice of Opportunity to Request a
Hearing**

**Proceeding to Assess Class I
Civil Penalty**

Docket No. CWA-02-2016-3303

CERTIFICATE OF SERVICE


I certify that, on the date noted below, I caused to be mailed, by certified mail, return receipt requested, a copy of the foregoing "ADMINISTRATIVE COMPLAINT" and a copy of 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 (July 1, 2000) to the following persons at the addresses listed below:

Mr. Joel H. Benkie, President and Chief Operating Officer
Ducommun Incorporated, d/b/a
Ducommun AeroStructures New York, Inc.
23301 Wilmington Avenue
Carson, CA 90745-6209

Mr. Joseph DiMura, P.E., Director
Bureau of Water Compliance Programs
Division of Water
New York State Department of Environmental Conservation
625 Broadway
Albany, New York 12233-3506

I hand carried the original and a copy of the foregoing Complaint to the Office of the Regional Hearing Clerk, United States Environmental Protection Agency, Region 2.

Date: 10/16/15
New York, New York


[Signature of Sender]
[NOTE: must be over