



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

JAN 02 2014

CERTIFIED MAIL 7004 1350 0003 0338 6157
RETURN RECEIPT REQUESTED

Jonathan M. Jaffe, Esq.
Director, Associate Counsel
Royal Caribbean Cruises, Ltd.
1050 Caribbean Way
Miami, Florida 33132

Re: Consent Agreement and Final Order, Docket No.: CWA-04-2014-4500(b)
National Pollutant Discharge Elimination System Vessel General Permit
Tracking No.: VPAAQ457L for Large Cruise Ship Vessel *Freedom of the Seas*

Dear Mr. Jaffe:

Enclosed, please find a fully executed copy of the Consent Agreement and Final Order, finalized by the U.S. Environmental Protection Agency Region 4 and the Regional Judicial Officer. Please make note of the provisions under Paragraph IV. Payment.

Should you have any questions regarding this matter, please contact Ms. Tanya Floyd, Associate Regional Counsel, at (404) 562-9813 or via email at floyd.tanya@epa.gov.

Sincerely,

Denisse D. Diaz, Chief
Clean Water Enforcement Branch
Water Protection Division

Enclosure

cc: Ms. Sharon Sawicki, P.E.
Florida Department of Environmental Protection

Mr. Jeff Littlejohn
Florida Department of Environmental Protection

Captain Tom Allan
U.S. Coast Guard Sector Jacksonville, Florida

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

HEARING CLERK

2016 JAN -2 AM 7:17

RECEIVED
EPA REGION IV

IN THE MATTER OF:)
)
ROYAL CARIBBEAN CRUISES, LTD.,) CONSENT AGREEMENT AND
) FINAL ORDER
LARGE CRUISE SHIP VESSEL)
)
FREEDOM OF THE SEAS,)
)
CAPE CANAVERAL, FLORIDA,)
)
)
RESPONDENT.) DOCKET NO. CWA-04-2014-4500(b)
)

CONSENT AGREEMENT

I. Statutory Authority

1. This is a civil penalty proceeding pursuant to Section 309(g)(2)(A) of the Clean Water Act ("CWA"), 33 U.S.C. § 1319(g)(2)(A), and 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*, including Subpart I, published at 64 Fed. Reg. 40176 (July 23, 1999) and codified at 40 Code of Federal Regulations ("C.F.R.") Part 22.

2. The authority to take action under Section 309(g)(2)(A) of the CWA, 33 U.S.C. § 1319(g)(2)(A), is vested in the Administrator of the United States Environmental Protection Agency. The Administrator has delegated this authority to the Regional Administrator, Region 4, who in turn has delegated this authority to the Director of the Water Protection Division, who in turn has delegated this authority to the Chief of the Clean Water Enforcement Branch of the EPA, Region 4 ("Complainant").

II. Allegations

3. Royal Caribbean Cruises, Ltd. ("Respondent") is a Liberian corporation doing business in the State of Florida, and, therefore, is a "person" within the meaning of Section 502(5) of the CWA, 33 U.S.C. § 1362(5).

4. At all times relevant to this Consent Agreement and Final Order ("CA/FO"), the Respondent owned and/or operated a large cruise ship vessel entitled *Freedom of the Seas* home ported in the United States at Port Canaveral in Cape Canaveral, Florida.

5. To accomplish the objective of the CWA, 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 discharge of pollutants by any person into waters of the United States except as in compliance with a National

Pollutant Discharge Elimination System (“NPDES”) permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

6. A “discharge of a pollutant”, as defined by Section 502(12)(A) of the CWA, 33 U.S.C. § 1362(12)(A), is any addition of any pollutant to navigable waters from any point source.

7. A “point source”, as defined by Section 502(14) of the CWA, 33 U.S.C. § 1362(14), is a “discernible, confined and discrete conveyance” and includes a “vessel or other floating craft.”

8. The term “navigable waters”, as defined by Section 502(7), 33 U.S.C. § 1362(7), means waters of the United States, including territorial seas.

9. On December 29, 2008, the EPA announced in the Federal Register issuance of a final NPDES Vessel General Permit (“VGP”), effective December 19, 2008, regulating point source discharges associated with discharges incidental to the normal operations of vessels into “waters of the United States” as defined in 40 C.F.R. 122.2, which extend to the outer reach of the 3 mile “territorial seas” as defined in section 502(8) of the CWA, 33 U.S.C. § 1362(8). See 73 Fed. Reg. 79473.

10. The VGP that became effective on December 19, 2008, applies to owners and operators of non-recreational vessels that are 79 feet and greater in length pursuant to Part 1.2.1 of the VGP. See 73 Fed. Reg. at 79477. If such a vessel is greater than or equal to 300 gross tons or has the capacity to hold or discharge more than eight cubic meters (2113 gallons) of ballast water, it is required to submit a Notice of Intent (“NOI”) to the EPA to receive coverage under the VGP in accordance with Part 1.5.1 of the VGP.

11. On September 3, 2009, the Respondent submitted an electronic NOI to the EPA requesting permit coverage under the VGP for the large cruise ship vessel entitled *Freedom of the Seas*. The NOI identifies *Freedom of the Seas* as a large cruise ship having more than 500 passengers, weighing 158,000 gross registered tons, being 339 meters in length, and having a ballast water capacity of 3829 cubic meters. The EPA granted the *Freedom of the Seas* coverage under the VGP with unique identifier VPAAQ457L.

12. Part 2 (Effluent Limits and Related Requirements) of the VGP provides that “minimize” means reduce and/or eliminate to the extent achievable using control measures (including best management practices) that are technologically available and economically practicable and achievable in light of best marine practice.

13. Part 2.2.23 (Underwater Ship Husbandry Discharges) of the VGP requires a Permittee who removes fouling organisms from hulls while the vessel is waterborne to employ methods that minimize the discharge of fouling organisms and anti-fouling hull coatings. These methods shall include:

- Selection of appropriate cleaning brush or sponge rigidity to minimize removal of anti-fouling coatings and biocide releases into the water column.
- Limiting use of hard brushes and surfaces to the removal of hard growth.
- When available and feasible, use of vacuum control technologies to minimize the release or dispersion of anti-fouling hull coatings and fouling organisms into the water column.

Vessel owners/operators must also minimize the release of copper based anti-foulant paint into the water column when they clean their vessel. Cleaning of copper based anti-foulant paints must not result in any visible cloud or plume of paint in the water: if a visible cloud or plume of paint develops, the vessel owner/operator shall shift to a softer brush or less abrasive cleaning technique. A plume or cloud of paint can be noted by the presence of discoloration or other visible indication that is distinguishable from hull growth or sediment removal. Production of a plume or cloud of sediment should be substantially paint free (e.g. paint should not be clearly identifiable in the plume or cloud).

14. Part 4.4.3 (Additional Reporting) of the VGP requires that a Permittee orally report any noncompliance of the VGP which may endanger health or the environment to the appropriate EPA Regional Office as listed in Part 8 of the VGP within 24 hours from the time that the Permittee is aware of such circumstances and provide a written follow-up report to the appropriate EPA Regional Office within five days of the oral report.

15. Part 5.1.3 (Educational and Training Requirements) of the VGP provides that large cruise ship operators are subject to the following requirements:

- The ship's crew members who actively take part in the management of a discharge or who may affect any discharge must receive training regarding shipboard environmental procedures and must be able to demonstrate proficiency in implementing these procedures.
- Advanced training in shipboard environmental management procedures must be provided for those directly involved in managing specific discharge types or areas of the ship and these crew members must be able to demonstrate proficiency in implementing these procedures.
- Appropriate reprimand procedures must be developed for crew whose actions lead to violations of any effluent limit set forth in this permit or procedures established by the cruise ship operator to minimize the discharge of pollutants.

16. On or about October 11, 2012, the EPA received a citizen's complaint of an incident that occurred on or about October 7, 2012, involving the observation of a visible sheen of anti-fouling paint residue floating on the waters of Port Canaveral that allegedly originated from the *Freedom of the Seas* during hull cleaning operations.

17. On December 20, 2012, the EPA sent an Information Request letter pursuant to Section 308 of the CWA, 33 U.S.C. § 1318, to the Respondent requesting information regarding, in part, *Freedom of the Seas*' compliance with requirements of the VGP.

18. As a result of an investigation conducted by the EPA, including a review of the Respondent's response to the Information Request, the EPA made the following observations and determinations:

- a. A visible cloud and plume full of anti-fouling paint were observed by Port Authority officials in Port Canaveral, a navigable water of the United States, during and after the cleaning of the point source, *Freedom of the Seas*, in October 2012. The observations made by Port Authority officials demonstrate that the Respondent allowed excessive underwater ship husbandry discharges of pollutants, in the form of anti-fouling paint containing copper and other debris loosed from the hull of the *Freedom of the Seas* during hull cleaning operations, without utilizing methods to reduce the discharges into waters of the United States on or about October 7, 2012, in violation of Part 2.2.23 of the VGP.
- b. The Respondent notified the National Response Center on October 7, 2012 (Incident # 1026683), of the underwater ship husbandry discharge incident. However, the Respondent did not orally notify the EPA, Region 4 in accordance with Part 8 of the VGP within 24 hours of becoming aware of the discharge in violation of Part 4.4.3 of the VGP since the anti-fouling paint released into Port Canaveral contained copper, and thus may endanger health or the environment.
- c. The Respondent failed to provide a written report to the EPA, Region 4 in accordance with Part 8 of the VGP within 5 days of becoming aware of the underwater ship husbandry discharge in violation of Part 4.4.3 of the VGP.
- d. Based upon the failure of the Respondent and/or those acting on its behalf to utilize methods to reduce underwater ship husbandry discharges from *Freedom of the Seas* into Port Canaveral in October 2012 demonstrates that *Freedom of the Seas*' crew members actively taking part in the management of such discharges were not adequately trained to demonstrate proficiency in implementing discharge reduction methods in violation of Part 5.1.3 of the VGP.

19. Therefore, the Respondent has violated Sections 301 and 402 of the CWA, 33 U.S.C. §§1311 and 1342, by failing to comply with conditions of the VGP.

III. Stipulations and Findings

20. The Complainant and the Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 C.F.R. § 22.13(b), this CA/FO will simultaneously commence and conclude this matter.

21. For the purposes of this CA/FO, the Respondent admits the jurisdictional allegations set out above and neither admits nor denies the factual allegations set out above. The Complainant asserts that the facts are true and substantiated.

22. The Respondent hereby waives its right to contest the allegations set out above and its right to appeal the Final Order accompanying this Consent Agreement.

23. The Respondent consents to the assessment of and agrees to pay the civil penalty as set forth in this CA/FO and consents to the other conditions set forth in this CA/FO.

24. By signing this CA/FO, the Respondent certifies that the information it has supplied concerning this matter was at the time of submission, and is, truthful, accurate, and complete for each such submission, response, and statement. The Respondent realizes that there are significant penalties for submitting false or misleading information, including the possibility of fines and/or imprisonment for knowing submission of such information.

25. The EPA reserves the right to assess and collect any and all civil penalties for any violation described herein to the extent that any information or certification provided by the Respondent was materially false or inaccurate at the time such information or certification was provided to the EPA.

26. The Complainant and the Respondent agree to settle this matter by their execution of this CA/FO. The parties agree that the settlement of this matter is in the public interest and that this CA/FO is consistent with the applicable requirements of the CWA.

IV. Payment

27. Pursuant to Section 309(g)(2)(A) of the CWA, 33 U.S.C. § 1319(g)(2)(A), and 40 C.F.R. Part 19, and considering the nature of the violations and other relevant factors, the EPA has determined that Thirty-Seven Thousand Five Hundred Dollars (\$ 37,500) is an appropriate civil penalty to settle this action.

28. The Respondent shall submit payment of the penalty specified in the preceding paragraph within thirty (30) days of the Effective Date of this CA/FO via a cashier's or certified check, payable to the order of "Treasurer, United States of America." The check shall reference on its face the name of Respondent and the Docket Number of this CA/FO. Such payment shall

be tendered to:

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

29. At the time of payment, the Respondent shall send a separate copy of the check, and a written statement that payment has been made in accordance with this CA/FO, to the following persons at the following addresses:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

And

Mr. Dennis Sayre
U.S. Environmental Protection Agency, Region 4
Water Protection Division
Clean Water Enforcement Branch
Municipal and Industrial Enforcement Section
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

30. The penalty amount specified above shall represent civil penalties assessed by the EPA and shall not be deductible for purposes of federal taxes.

31. Pursuant to Section 309(g)(9) of the CWA, 33 U.S.C. § 1319(g)(9), failure by the Respondent to pay the penalty assessed by the CA/FO in full by its due date may subject the Respondent to a civil action to collect the assessed penalty plus interest (at currently prevailing rates from the effective date of this CA/FO), attorney's fees, 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 such penalty and nonpayment penalty which are unpaid as of the beginning of such quarter. In any such collection action, the validity, amount, and appropriateness of the penalty and of this CA/FO shall not be subject to review.

V. General Provisions

32. This CA/FO shall not relieve the Respondent of its obligation to comply with all applicable provisions of federal, state, and 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. Other than as expressed herein, compliance with this CA/FO shall not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by the EPA.

33. Nothing in this CA/FO shall be construed as prohibiting, altering, or in any way limiting the ability of the United States to seek any other remedies or sanctions available by virtue of the Respondent's violation of this CA/FO or of the statutes and regulations upon which this CA/FO is based, or for the Respondent's violation of any federal or state statute, regulation, or permit.

34. Except as otherwise set forth herein, this CA/FO constitutes a settlement by the Complainant and the Respondent of all claims for civil penalties pursuant to the CWA with respect to only those violations alleged in this CA/FO. Except as otherwise set forth herein, compliance with this CA/FO shall resolve the allegations of violations contained herein. Nothing in this CA/FO is intended to nor shall be construed to operate in any way to resolve any criminal liability of the Respondent, or other liability resulting from violations that were not alleged in this CA/FO. Other than as expressed herein, the Complainant does not waive any right to bring an enforcement action against the Respondent for violation of any federal or state statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or to pursue criminal enforcement.

35. Each undersigned representative of the parties to this CA/FO certifies that he or she is fully authorized to enter into the terms and conditions of this CA/FO and to execute and legally bind that party to it.

36. This CA/FO applies to and is binding upon the Respondent and its officers, directors, employees, agents, successors and assigns.

37. Any change in the legal status of the Respondent, including, but not limited to, any transfer of assets of real or personal property, shall not alter the Respondent's responsibilities under this CA/FO.

38. Each party shall bear its own costs and attorneys fees in connection with the action resolved by this CA/FO.

39. In accordance with 40 C.F.R. § 22.5, the individuals below are authorized to receive service relating to this proceeding.

For Complainant:

Ms. Tanya Floyd
Associate Regional Counsel
Office of Environmental Accountability
U.S. Environmental Protection Agency, Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
(404) 562-9813

For the Respondent:

Mr. Jonathan M. Jaffe, Esq.
Director, Associate Counsel
Royal Caribbean Cruises, Ltd.
1050 Caribbean Way
Miami, Florida 33132
(305) 539-6767

40. The parties acknowledge and agree that this CA/FO is subject to the requirements of 40 C.F.R. § 22.45(c)(4), which provides a right to petition to set aside a consent agreement and proposed final order based on comments received during the public comment period.

41. Effective upon signature of this CAFO by the Respondent's responsible corporate officer, the Respondent agrees that the time period commencing on the date of his signature and ending on the date the EPA receives from Respondent the payment required by this CAFO shall not be included in computing the running of any statute of limitations potentially applicable to any action brought by the EPA related to the matters addressed in this CAFO and that, in any action brought by the EPA related to the matters addressed, the Respondent will not assert, and may not maintain, any defense or claim based upon principles of statute of limitations, waiver, laches, estoppel, or other defense based on the passage of time during such period. If the EPA gives notice to the Respondent that it will not make this CAFO effective, the statute of limitations shall begin to run again commencing ninety days after the date such notice is sent by the EPA.

42. Pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), and 40 C.F.R. § 22.38(b), the Complainant represents that the State of Florida was provided a prior opportunity to consult with the Complainant regarding this matter.

VI. Release by the Respondent

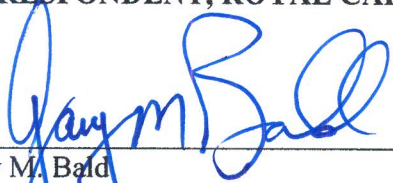
43. The Respondent hereby covenants not to sue and agrees not to assert any claims or causes of action against the United States, including any department, agency, or instrumentality of the United States, with respect to the matters addressed and resolved in this CA/FO, including, but not limited to any claim that any of the matters or actions described in this CA/FO have resulted in a taking of the Respondent's property without compensation.

VII. Effective Date

44. The effective date of this CA/FO shall be the date on which the CA/FO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

For RESPONDENT, ROYAL CARIBBEAN CRUISES, LTD.:

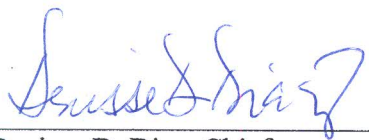


Date: 9/26/13

Gary M. Bald
Senior Vice President
Safety, Security, Environment, Medical/Public Health



For COMPLAINANT, U.S. ENVIRONMENTAL PROTECTION AGENCY:



Date: 12/16/13

Denisse D. Diaz, Chief
Clean Water Enforcement Branch
Water Protection Division
U.S. EPA, Region 4

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)	
)	CONSENT AGREEMENT AND
ROYAL CARIBBEAN CRUISES, LTD.,)	FINAL ORDER
LARGE CRUISE SHIP VESSEL)	
FREEDOM OF THE SEAS,)	
CAPE CANAVERAL, FLORIDA,)	
)	
RESPONDENT.)	DOCKET NO. CWA-04-2014-4500(b)
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FINAL ORDER

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*, including Subpart I, 40 C.F.R. Part 22, and authorities delegated to me, the foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. Pursuant to Section 309(g)(2)(A) of the CWA, 33 U.S.C. § 1319(g)(2)(A), the Respondent is hereby ordered to comply with the terms of the foregoing Consent Agreement.

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: Dec 19, 2013



Susan B. Schub
Regional Judicial Officer

Docket No. CWA 04-2014-4500(b)

CERTIFICATE OF SERVICE


The undersigned certifies that a true and correct copy of the attached **CONSENT AGREEMENT AND FINAL ORDER** in the matter of **Royal Caribbean Cruises, Ltd.,** **Docket No. CWA-04-2014-4500(b)** filed with the Regional Hearing Clerk on 1-2-14, 2014, was served on 1-2-14, 2014, in the manner specified to each of the persons listed below.

By hand-delivery:

Ms. Tanya Floyd
Associate Regional Counsel
Office of Environmental Accountability
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

By certified mail,
return receipt requested:

Mr. Jonathan M. Jaffe, Esq.
Director, Associate Counsel
Royal Caribbean Cruises, Ltd.
1050 Caribbean Way
Miami, Florida 33132



Ms. Patricia A. Bullock
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
(404) 562-9511

EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM
=====

TO BE COMPLETE BY ORIGINATING OFFICE:

(attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Mary Mattox 10/22/13
[Name] [Date]
in the WPD/CWEB/Municipal and Industrial Section at 404-562-9733
[Office] [Telephone Number]

- Non-SF Judicial Order/Consent Decree. USAO COLLECTS. Administrative Order/Consent Agreement. FMS COLLECTS PAYMENT.
 SF Judicial Order/Consent Decree. FMS COLLECTS. Other Receivables
 This is an original debt. This is a modification.

PAYEE: Royal Caribbean Cruises, FL
[Name of person and/or Company/Municipality making the Payment]

The Total Dollar Amount of Receivable: \$ 37,500
[If in installments, attach schedule of amounts and respective due dates]

The Case Docket Number: CWA-04-2014-4500 (b)

The Site-Specific Superfund (SF) Account Number: _____

The Designated Regional/Headquarters Program Office: Region 4 Water Protection Division

=====

TO BE COMPLETED BY LOCAL FINANCIAL MANAGEMENT SECTION:

The IFMS Accounts Receivable Control Number is: _____
If you have any questions call: _____ in the Financial Management Section,
Telephone Number: _____

=====

DISTRIBUTION:

A. JUDICIAL ORDERS: Copies of this form with an attached copy of the front page of the FINAL JUDICIAL ORDER should be mailed to:

- | | |
|--|---|
| 1. Debt Tracking Officer
Environmental Enforcement Section
Department of Justice/RH 1647
P.O. BOX 7611, Benjamin Franklin Station
Washington, DC 20044 | 2. Originating Office (ORC)
3. Designated Program Office |
|--|---|

B. ADMINISTRATIVE ORDERS: Copies of this form with an attached copy of the front page of the ADMINISTRATIVE ORDER should be sent to:

- | | |
|--|---|
| 1. Originating Office
3. Regional Hearing Clerk | 2. Designated Program Office
4. Regional Counsel |
|--|---|

EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM
PROGRAM SPECIFIC INFORMATION

Case Docket Control Number: CWA-04-2014-4500(b)

Total Amount Due: \$ 37,500

Full payment due within 30 days of the effective date of the CAFO.

 Installment payments to be paid:

Amount Due:	Date Due:
\$ _____	_____
\$ _____	_____
\$ _____	_____
\$ _____	_____