

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2**

In the Matter of:

Wawa, Inc.

Respondent.

Proceeding under Section 9006 of the  
Solid Waste Disposal Act, as amended

**CONSENT AGREEMENT AND  
FINAL ORDER**

Docket No. RCRA-02-2023-7502

**PRELIMINARY STATEMENT**

This is a civil administrative proceeding instituted pursuant to Section 9006 of the Solid Waste Disposal Act as amended, 42 U.S.C. § 6901, *et seq.* (“RCRA” or the “Act”) and 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 (“CROP”). Complainant in this proceeding is the Director of the Enforcement and Compliance Assurance Division, United States Environmental Protection Agency, Region 2 (“EPA”), who has been delegated the authority to sign consent agreements in pre-filing settlements between EPA and a party against whom an administrative action is taken for violations of requirements under RCRA and the corresponding federal regulations. Section 9006 of RCRA, 42 U.S.C. § 6991(e), authorizes the EPA to enforce violations of the Act and the regulations promulgated pursuant to it. The Respondent, Wawa, Inc. (“Respondent” or “Wawa”), has been the owner and/or operator of federally regulated underground storage tanks (“USTs”) that supply fuel at their facilities across the state of New Jersey.

Based on EPA inspection findings, Respondent’s responses to EPA’s Notice of Violation and Request for Information (“NOV/RFI”), and related correspondence, EPA determined that the Respondent failed to meet requirements for: maintaining records of Class C Operator training; maintaining a list of designated operators; and conducting monthly monitoring of pressurized piping for line tightness.

Pursuant to Section 22.13(b) of the CROP, where the parties agree to settlement of one or more causes of action before the filing of an administrative complaint, a proceeding may be simultaneously commenced and concluded by issuance of a Consent Agreement and Final Order (“CA/FO”) pursuant to 40 C.F.R. Sections 22.18(b)(2) and 22.18(b)(3) of the CROP. The Complainant and the Respondent have reached an amicable resolution of this matter, and agree that settlement of this matter by entering into this CA/FO is an appropriate means of resolving this case without further litigation.

No adjudicated findings of fact or conclusions of law have been made. Respondent neither admits nor denies the EPA Findings of Fact and Conclusion of Law set forth below.

### **EPA'S FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. Respondent is a “person” within the meaning of Sections 1004(15) and 9001(5) of the Act, 42 U.S.C §§ 6903(15) and 6991(5), and 40 C.F.R. § 280.12.
2. The Respondent was and remains the “owner” and/or “operator” of the USTs or “UST systems,” as those terms are defined in Section 9001 of the Act, 42 U.S.C § 6991, and/or in 40 C.F.R. § 280.12, that are located at the following nine (9) facilities across the state of New Jersey:
  - a. Wawa #759, 3904 Route 47, Dorchester, NJ 08316;
  - b. Wawa #944, 624 West Main Street, Millville, NJ 08332;
  - c. Wawa #968, 719 5<sup>th</sup> Avenue, Galloway, NJ 08205;
  - d. Wawa #459, 876 Route 45, Woodstown, NJ 08098;
  - e. Wawa #729, 410 West Rio Grande Avenue, Wildwood, NJ 08260;
  - f. Wawa #758, 30 Shore Road, Marmora, NJ 08223;
  - g. Wawa #465, 2500 Sea Isle Blvd., Ocean View, NJ 08204;
  - h. Wawa #946, 3601 Route 9, Rio Grande, NJ 08242; and
  - i. Wawa #8332, 418 Broadway, Pennsville, NJ 08070.
3. Pursuant to Sections 2002, 9002, and 9003 of the Act, 42 U.S.C. §§ 6912, 6991(a), and 6991(b), EPA promulgated rules setting forth requirements applicable to owners and operators of UST systems, codified at 40 C.F.R. Part 280. These rules include requirements related to maintenance of records verifying completion of operator training and listing designated operators at each facility, and monthly monitoring of pressurized piping to ensure line tightness.
4. 40 C.F.R. § 280.12 defines a UST as “any one or combination of tanks (including underground pipes connected thereto) that is used to contain an accumulation of regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is ten (10%) percent or more beneath the surface of the ground.”
5. Pursuant to 40 C.F.R. § 280.245(a), owners and operators of underground storage tank systems must maintain a list of designated Class A, Class B, and Class C operators that must identify all operators currently designated for the facility, and include names, class of operator trained, the date they assumed duties, the date each operator completed initial training, and any retraining.
6. Pursuant to 40 C.F.R. § 280.245(b), owners and operators of underground storage tank systems must maintain records verifying that Class A, Class B, and Class C operators have completed training and retraining. The records, at a minimum, must identify the name of trainee, the date trained, and the operator training class completed, and list the name of the trainers or examiner and the training company name, address, and telephone number. If the training is computer based, the record must at minimum include the name

of the training program and web address, if the training was Internet-based. Owners and operators must maintain these records for as long as operators are designated.

7. Pursuant to 40 C.F.R. § 280.41(b)(1)(i)(B), UST system owners and operators must conduct an annual line tightness test, or monthly monitoring of pressurized piping that is in accordance with § 280.44(c).
8. Pursuant to Section 9005 of the Act, 42 U.S.C. § 6991(d), between July 19, 2021 and November 17, 2021, authorized representatives of EPA inspected the UST systems at a number of facilities owned and/or operated by Respondent to determine Wawa's compliance with the Act and 40 C.F.R. Part 280. EPA subsequently transmitted a copy of its inspection reports to Respondent on or about December 23, 2021, which was subsequently followed on or about February 1, 2022, by EPA sending Respondent an NOV/RFI.
9. Throughout February and March 2022, Respondent provided responses to the RFI to EPA through emails. Respondent then certified the accuracy of the information in the email responses provided. During that time, EPA corresponded with Respondent, the New Jersey Department of Environmental Protection ("NJDEP") and the sensor manufacturer Veeder Root, regarding information pertaining to the alleged violations.
10. Based on EPA's inspections, Respondent's responses to the NOV/RFI, and the correspondence described above, EPA sent a Notice of Potential Violations and Opportunity to Confer ("NOPVOC") to Respondent on March 6, 2023.
11. Based on EPA's inspection reports, along with Respondent's responses to EPA's (NOPVOC) and related correspondence, EPA has determined that Respondent failed to:
  - a) Maintain a list of designated Class A, Class B and Class C operators, which must identify all such operators currently designated for the facility, and include names, class of operator trained, dates each assumed duties, date each completed initial training, and any retraining, in accordance with 40 C.F.R. § 280.245(a), at all of the nine (9) Facilities that are part of this action; and
  - b) Maintain records verifying that Class C operators had completed training or retraining, that met all requirements set forth in accordance with 40 C.F.R. § 280.245(b), at seven (7) of the Facilities inspected, specifically Wawa Stores numbered 459, 465, 729, 758, 759, 946, and 8332;
  - c) Conduct monthly monitoring of pressurized piping that complied with the requirements set forth in 40 C.F.R. § 280.44(c), in accordance with 40 C.F.R. § 280.41(b)(1)(i)(B), at three (3) of the Facilities inspected, specifically Wawa Stores numbered 729, 758, and 8332.
12. Since the March 2023 NOPVOC, the parties have engaged in settlement discussions on the EPA determinations described in Paragraph 11, *supra*, and have now agreed to settle this matter by entering into this Consent Agreement.

## CONSENT AGREEMENT

Based upon the foregoing, and pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991(e), and 40 C.F.R. § 22.18 of the CROP, it is hereby agreed by and between the Complainant and the Respondent and voluntarily and knowingly accepted by the Respondent, that the Respondent, for purposes of this Consent Agreement:

- (a) admits the jurisdictional basis of this action;
- (b) neither admits nor denies the Findings of Fact and Conclusions of Law above;
- (c) consents to the assessment of the civil penalty set forth below;
- (d) consents to any and all conditions stated in the Consent Agreement;
- (e) consents to the issuance of the Final Order incorporating all the provisions of this Consent Agreement; and
- (f) waives its right to contest or appeal that Final Order.

It is further hereby agreed by and between Complainant and Respondent, and voluntarily and knowingly accepted by Respondent, that the Respondent shall comply with the following terms and conditions:

1. Commencing on the effective date of the Final Order, Respondent shall hereinafter maintain compliance at its facilities with all regulations applicable to owners and operators of USTs as set forth at 40 C.F.R. Part 280, including but not limited to:
  - a) Complying with the maintenance of records verifying that all operators have completed training;
  - b) Maintaining records listing current designated operators by facility and including all other required information about the training of said operators; and,
  - c) Conducting monthly monitoring of pressurized piping in accordance with the standards laid out in the regulations.
2. Respondent certifies that, as of the effective date of the CA/FO, to the best of its knowledge and belief, it is complying with applicable UST requirements at all of its facilities, including but not limited to those referenced in Paragraph 11 of EPA's Findings of Facts and Conclusions of Law of this CA/FO.
3. Respondent shall pay a civil penalty to EPA in the total amount of **TWENTY-SIX THOUSAND, FIVE HUNDRED DOLLARS (\$26,500.00)**. Such payment shall be made by cashier's check, certified check or by electronic fund transfer (EFT).
4. If the payment is made by check, then the check shall be: (a) made payable to the **"Treasurer, United States of America;"** (b) identified with a notation thereon listing the following: **"In the Matter of Wawa, Inc., Docket Number RCRA 02-2023-7502;"** and (c) mailed to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979078  
St. Louis, Missouri 63197-9000

5. Alternatively, if Respondent chooses to make the payment by EFT, Respondent shall then provide the following information to its remitter bank:
  - a. Amount of Payment (**\$26,500.00**).
  - b. SWIFT address: **FRNYUS33, 33 Liberty Street, New York, New York 10045**
  - c. Account Code for Federal Reserve Bank of New York receiving payment: **68010727**
  - d. Federal Reserve Bank of New York ABA routing number: **021030004**
  - e. Field Tag 4200 of the Fedwire message should read: **D 68010727 Environmental Protection Agency**
  - f. Name of Respondent: **Wawa, Inc.**
  - g. Case docket number: **RCRA-02-2023-7502**
6. Whether Respondent makes payment by cashier's check, certified check or by the EFT method, Respondent shall, promptly when payment has been made, furnish reasonable proof that the required payment has been made, and such proof shall be furnished to the EPA individuals identified below in Paragraph 11.
7. The payment must be received at the above address (or account of EPA) on or before thirty (30) calendar days of the effective date of the Final Order, as discussed in Paragraph 22 below.
8. Furthermore, if payment is not made on or before the Due Date, interest for said payment shall be assessed at the annual rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, on the overdue amount from the Due Date said payment was to have been made through the date said payment has been received. In addition, a late payment handling charge of \$15.00 will be assessed for each thirty (30) calendar day period or any portion thereof, following the date the payment was to have been made, in which payment of the amount remains in arrears. In addition, a 6% per annum penalty will be applied to any principal amount that has not been received by the EPA within ninety (90) calendar days of the date by which the payment was required hereto to have been made.
9. Full payment of the penalty described in Paragraph 3 of this Consent Agreement shall only resolve Respondent's liability for federal civil penalties for the violations described in Paragraph 11 of EPA's Findings of Fact and Conclusions of Law. Full payment of this penalty shall not in any case affect the right of EPA or the United States from pursuing appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.
10. Complainant shall e-mail to Respondent (to the representative designated in Paragraph 11 of this Consent Agreement, *infra*) a copy of the fully executed CA/FO. Respondent consents to service of the CA/FO by email and consents to service by an employee of EPA other than the Regional Hearing Clerk of EPA, Region 2.
11. Except as the parties may agree otherwise in writing, all documentation and information required to be submitted in accordance with the terms and conditions of this Consent

Agreement shall be sent by e-mail to:

Steven Petrucelli  
Enforcement and Compliance Assurance Division  
US Environmental Protection Agency, Region 2  
290 Broadway, 21st Floor  
New York, NY 10007-1866  
[Petrucelli.Steven@epa.gov](mailto:Petrucelli.Steven@epa.gov)

and

Suzanne Englot, Assistant Regional Counsel  
Office of Regional Counsel  
US Environmental Protection Agency, Region 2  
290 Broadway, 16<sup>th</sup> Floor  
New York, NY 10007-1866  
[Englot.Suzanne@epa.gov](mailto:Englot.Suzanne@epa.gov)

Unless the above-named EPA contacts are later advised otherwise in writing, EPA shall send any future written communications related to this matter (including any correspondence related to payment of the penalty) to Respondent by email to:

Joshua Worth  
Environmental Compliance Specialist  
Wawa, Inc.  
260 West Baltimore Pike  
Wawa, PA 19063-5699  
[joshua.m.worth@wawa.com](mailto:joshua.m.worth@wawa.com)

and

Carolyn Maddaloni  
Counsel  
Wawa, Inc.  
260 West Baltimore Pike  
Wawa, PA 19063-5699  
[legaldepartment@wawa.com](mailto:legaldepartment@wawa.com)

12. Respondent has read the Consent Agreement, understands its terms, finds it to be reasonable and consents to the issuance and its terms. Respondent consents to the issuance of the accompanying Final Order. Respondent agrees that all the terms of the settlement are set forth herein.
13. Respondent explicitly and knowingly consents to the assessment of the civil penalty as set forth in this Consent Agreement and agrees to pay the civil penalty in accordance with the terms of the Consent Agreement.

14. Respondent agrees not to contest the validity of any term of this CA/FO in any action, suit or proceeding brought by the United States, including EPA, to enforce this CA/FO or to enforce a judgment relating to this CA/FO.
15. Respondent waives its right to request a hearing on this Consent Agreement, or the Final Order included herein, including any right to contest any of EPA's Findings of Fact and Conclusions of Law contained within this document. In addition, Respondent expressly waives any right to contest the EPA determinations contained in this CA/FO and to appeal the Final Order of this CA/FO.
16. This CA/FO does not relieve Respondent of its obligations to comply with all applicable provisions of federal, state or local law, nor shall it be construed to be a ruling on, or a determination of, any issue related to any federal, state or local permit. This CA/FO does not waive, extinguish, or otherwise affect Respondent's obligation to comply with applicable provisions of the Act and the regulations promulgated thereunder.
17. Nothing in this document is intended nor shall it be construed to waive, prejudice or otherwise affect the right of EPA, or the United States, from pursuing any appropriate remedy, sanction or penalty prescribed by law against Respondent for having made any material misrepresentations or for having provided materially false information in any document in connection with this proceeding.
18. Nothing herein shall be construed to limit the power of the EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.
19. The provisions of this CA/FO shall be binding upon both EPA and the Respondent, their officers, agents, authorized representatives and successor agencies, departments or instrumentalities.
20. Each party hereto agrees to bear its own costs and fees in connection with this proceeding.
21. The undersigned signatory for Respondent certifies that: (a) he or she is duly and fully authorized to enter into this Consent Agreement and all the terms, conditions and requirements set forth in this Consent Agreement; and b) he or she is duly and fully authorized to bind the party on behalf of which he or she is entering this Consent Agreement to comply with and abide by all the terms, conditions and requirements of this Consent Agreement.
22. EPA and Respondent agree that the parties may use electronic signatures for this matter.
23. Pursuant to 40 C.F.R. Section 22.13(b), the effective date of this CA/FO shall be the date when it is filed with the Regional Hearing Clerk of the United States Environmental Protection Agency, Region 2.

**In the Matter of Wawa, Inc.**  
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**RESPONDENT:**

BY: Josh Worth  
(Signature)

NAME: Josh Worth  
(Please Print)

TITLE: Environmental Specialist

**COMPLAINANT**

For Dore F. LaPosta, Director  
Enforcement and Compliance Assurance Division  
Environmental Protection Agency - Region 2  
290 Broadway, 21<sup>st</sup> Floor  
New York, NY 10007-1866

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**FINAL ORDER**

The Regional Judicial Officer of the U.S. Environmental Protection Agency, Region 2, ratifies the foregoing Consent Agreement. The Consent Agreement, entered into by the Complainant and the Respondent, is hereby approved, incorporated herein, and issued as an Order pursuant to Section 9006 of the Act and 40 C.F.R. § 22.18(b)(3). The effective date of this Order shall be the date of filing with the Regional Hearing Clerk, U.S. EPA, Region 2, New York, New York.

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Helen S. Ferrera  
Regional Judicial Officer  
U.S. Environmental Protection Agency - Region 2  
290 Broadway, 17<sup>th</sup> Floor  
New York, NY 10007-1866

DATE: \_\_\_\_\_

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**CERTIFICATE OF SERVICE**

I certify that I have this day caused to be sent the foregoing fully executed CONSENT AGREEMENT and FINAL ORDER, bearing the above-referenced docket number, in the following manner to the respective addressees below:

Original and One Copy by EMAIL:

Karen Maples  
Regional Hearing Clerk  
U.S. Environmental Protection Agency- Region 2  
290 Broadway, 17th Floor  
New York, NY 10007-1866  
[Maples.Karen@epa.gov](mailto:Maples.Karen@epa.gov)

Copy by EMAIL:

Joshua Worth  
Environmental Compliance Specialist  
Wawa, Inc.  
260 West Baltimore Pike  
Wawa, PA 19063-5699  
[joshua.m.worth@wawa.com](mailto:joshua.m.worth@wawa.com)

and

Carolyn Maddaloni  
Counsel  
Wawa, Inc.  
260 West Baltimore Pike  
Wawa, PA 19063-5699  
[legaldepartment@wawa.com](mailto:legaldepartment@wawa.com)