EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

This form was originated by: Cynthia T. Weiss 4/3/12
Name of Contact person *Date*

in the ORC

____ Non-SF Jud. Order/Consent Decree. DOJ COLLECTS

____ SF Jud. Order/Consent Decree. FMD COLLECTS

__X__ Administrative Order/ Consent Agreement FMD COLLECTS PAYMENT

__X__ This is an original debt

_____ This is a modification

Name of Company making payment: National Institutes of Health

The Total Dollar Amount of Receivable: $40,742
(If in installments, attach schedule of amounts and respective due dates)
The Case Docket Number: CAA-03-2012-0099, RCRA-03-2012-0099
The Site-Specific Superfund Acct. Number: _____

The Designated Regional/HQ Program Office OECEJ

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

The IFMS Accounts Receivable Control Number _____
If you have any questions call: _____ _____
Name of Contact *Date*
in the Financial Management Office, phone number: _____

JUDICIAL ORDERS: Copies of this form with an attached copy of the front page of the final judicial order should be mailed to:

1. Rosemarie Pacheco
   Environmental Enforcement Section
   Lands Division, Room 130044
   1425 New York Avenue, N.W.
   Washington, D.C. 20005
2. Originating Office (ORC)
3. Designated Program Office

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
2. Designated Program Office
3. Regional Hearing Clerk

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

April 3, 2012

VIA CERTIFIED MAIL
William K. Floyd
Director, Division of Environmental Protection
Office of Research Facilities, OM
9000 Rockville Pike
Bethesda, MD 20892-5746

Re: **National Institutes of Health**
Consent Agreement and Final Order
U.S. EPA Docket Nos. CA-03-2012-0099, RCRA-03-2012-0099

Dear Mr. Floyd:

Enclosed please find the original of the Consent Agreement and Final Order, along with a certificate of service, which was filed with the Regional Hearing Clerk today.

Sincerely yours,

Cynthia T. Weiss
Senior Assistant Regional Counsel

Enclosures
cc: Garth Connor

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

IN RE:	:	
	:	
	:	
National Institutes of Health,	:	
	:	
Respondent,	:	
	:	**Docket No. CAA-03-2012-0099**
9000 Rockville Pike	:	
Bethesda, Maryland 20892	:	
	:	
Facility.	:	

CONSENT AGREEMENT

Preliminary Statement

This Consent Agreement is entered into by the Director of the Office of Enforcement, Compliance and Environmental Justice, U.S. Environmental Protection Agency, Region III ("EPA" or "Complainant") and the National Institutes of Health ("Respondent"), pursuant to Sections 3008, 9006, and 9007 of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. §§ 6928, 6991e, and 6991f, and Section 113 of the Clean Air Act ("CAA"), as amended, 42 U.S.C. § 7413, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules"), 40 C.F.R. Part 22, including, specifically 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).

RCRA Regulatory Background

This Consent Agreement and the accompanying Final Order (collectively "CAFO") resolve violations of RCRA, Subtitles C and I, 42 U.S.C. §§ 6921- 6939e and 6991-6991i, regulations in the authorized Maryland hazardous waste and underground storage tank programs, the CAA, Subchapter VI, 42 U.S.C. §§ 7671 – 7671q, and its regulations at 40 C.F.R. Part 82, and Maryland's Title V Operating Permit Program, in connection with Respondent's facility located at 9000 Rockville Pike in Bethesda, Maryland.

The State of Maryland Hazardous Waste Management Regulations ("MdHWMR"), are set forth at the Code of Maryland Regulations ("COMAR"), Title 26, Subtitle 13 et seq. The MdHWMR were originally authorized by EPA on February 11, 1985, pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b). Revisions to the MdHWMR set forth at COMAR, Title 26, Subtitle 13 were authorized by EPA effective July 31, 2001 and September 24, 2004. The provisions of the revised authorized program are enforceable by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

Effective July 30, 1992, pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991c, and 40 C.F.R. Part 281, Subpart A, the State of Maryland was granted final authorization to administer a state underground storage tank management program *in lieu* of the Federal underground storage tank management program. The provisions of the Maryland underground storage tank management program, through this final authorization, have become requirements of Subtitle I of RCRA and are, accordingly, enforceable by EPA pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e. Maryland's authorized underground storage tank program regulations are set forth in COMAR. Section 9006(a)-(d) of RCRA, 42 U.S.C. § 6991e(a)-(d), authorizes EPA: (a) to take an enforcement action whenever it is determined that a person is in violation of any requirement of RCRA Subtitle I, EPA's regulations thereunder, or any regulation of a state underground storage tank program which has been authorized by EPA; and (b) to assess a civil penalty against any person who violates any requirement of RCRA Subtitle I.

Respondent was previously notified regarding the RCRA allegations recited herein under cover letter dated May 18, 2010. In accordance with Sections 3008(a)(2) and 9006(a)(2) of RCRA, 42 U.S.C. §§ 6928(a)(2) and 6991e(a)(2), EPA has notified the Maryland Department of the Environment ("MDE") of EPA's intent to enter into a CAFO with Respondent resolving the RCRA violations set forth herein.

CAA Regulatory Background

This Consent Agreement and the accompanying Final Order (collectively "CAFO") also resolve violations of the CAA, 42 U.S.C. §§ 7401 et seq., regulations at 40 C.F.R. Part 82, and MDE's Title V Operating Permit Program, in connection with Respondent's facility located at 9000 Rockville Pike in Bethesda, Maryland.

EPA is authorized by Section 113 of the CAA, 42 U.S.C. § 7413, to take action to ensure that air pollution sources comply with all federally applicable air pollution control requirements. These include requirements promulgated by EPA and those contained in federally enforceable permits. Title V of the CAA, and implementing regulations at 40 C.F.R. Part 70, require that states develop and submit to EPA operating permit programs, and that EPA act to approve or disapprove each program. EPA approved the Title V operating permit programs for the State of Maryland effective on February 14, 2003.1 40 C.F.R. Part 70, Appendix A. The provisions of

1 Maryland's Operating Permit Program has subsequently been amended to include provisions not relevant to this action.

the Maryland Title V operating permit program, through this final authorization, have become requirements of the CAA and are, accordingly, enforceable by EPA pursuant to Section 113 of the CAA, 42 U.S.C. § 7413. The Maryland air pollution regulations discussed herein were all approved by EPA prior to the time the violations occurred. Maryland's authorized operating permit program regulations are administered by the Maryland Department of the Environment ("MDE"), and are set forth in the Code of Maryland Regulations and will be cited as "COMAR" followed by the applicable section of the regulations.

EPA promulgated the Stratospheric Ozone Protection Regulations ("Ozone Regulations") in 40 C.F.R. Part 82 for the purpose of controlling the use of substances that deplete the earth's protective stratospheric ozone layer. EPA promulgated the regulations in Subpart F of 40 C.F.R. Part 82 (40 C.F.R. §§ 82.150-82.169 and associated appendices), pursuant to CAA § 608(a)(1), 42 U.S.C. § 7671g(a)(1). Under 40 C.F.R. § 82.150, the purpose of Subpart F of 40 C.F.R. Part 82 is to reduce emissions of ozone-depleting refrigerants and their substitutes by maximizing the recapture and recycling of such refrigerants during the service, maintenance, repair, and disposal of appliances. The Ozone Regulations are enforceable by EPA pursuant to Section 113 of the CAA, 42 U.S.C. § 7413.

EPA is authorized by Section 113(a) of the CAA, 42 U.S.C. § 7413(a), to issue an administrative penalty order, pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), against any person whenever EPA determines that the person has violated or is in violation or any requirement or prohibition of any applicable state implementation plan or permit. Federal facilities are subject to Federal administrative enforcement action, including civil penalties, pursuant to Section 118 of the CAA, 42 U.S.C. § 7418(a).

EPA has notified the Maryland Department of the Environment of EPA's intent to enter into a CAFO with Respondent resolving the CAA violations set forth herein.

General Provisions

1. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.

2. Respondent neither admits nor denies the specific factual allegations and conclusions of law set forth in this CAFO, except as provided in Paragraph 1, above.

3. Respondent agrees not to contest EPA's jurisdiction with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of the CAFO.

4. For the purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and any right to appeal the accompanying Final Order, any right to a hearing pursuant to CAA Section 113(d)(2)(A),

42 U.S.C. § 7413(d)(2)(A), or any right to confer with the Administrator pursuant to RCRA Section 6001(b)(2), 42 U.S.C. § 6961(b)(2).

5. Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions.

6. Respondent shall bear its own costs and attorney's fees.

7. Respondent certifies to EPA by its signature herein that it is presently in compliance with the provisions of RCRA and the CAA referenced herein.

8. The provisions of this CAFO shall be binding upon Complainant and Respondent, its officers, directors, employees, successors, and assigns.

9. This CAFO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state or 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; nor does this CAFO constitute a waiver, suspension or modification of the requirements of RCRA or the CAA, or any regulations promulgated thereunder.

EPA's Findings of Fact and Conclusions of Law

10. In accordance with the Consolidated Rules at 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3), Complainant makes the findings of fact and conclusions of law which follow.

11. Respondent is the owner and operator of the facility located at 9000 Rockville Pike, Bethesda, Maryland (the "Facility").

12. EPA conducted an inspection of Respondent's Facility on July 13-17, 2009 and July 30, 2009 ("EPA inspection").

COUNT I (RCRA SUBTITLE C - Satellite Accumulation)

13. Paragraphs 1-12 of this CAFO are incorporated by reference as though fully set forth herein.

14. Respondent, is a department, agency and/or instrumentality within the U.S. Department of Health and Human Services and is a "person" as defined by RCRA Section 1004(15), 42 U.S.C. § 6903(15), and COMAR 26.13.01.03B.

15. Respondent is and has been through the period of the violations alleged herein, the "owner" and "operator" of a "facility" as these terms are defined by COMAR 26.13.01.03B.

16. Respondent is and has been through the period of the violations alleged herein, a "generator" of, and has engaged in the "storage" of, materials that are "solid wastes" and "hazardous waste" at the Facility as those terms are defined by COMAR 26.13.01.03B, including the solid wastes and hazardous waste referred to herein.

17. Respondent is and, at all times relevant to the violations in this CAFO, has been a large quantity generator who generates hazardous waste in an amount greater than 1,000 kilograms per month at the Facility.

18. COMAR 26.13.03.01.B provides that a generator who treats, stores or disposes of hazardous wastes on-site shall only comply with the following sections of this chapter with regard to that waste:

> (1) Regulation .02 of this chapter for determining whether or not he has a hazardous waste;
>
> ...
>
> (6) Regulation .05E for accumulation time.

19. COMAR 26.13.03.05E provides for satellite accumulation of hazardous waste as follows: a generator may accumulate as much as 55 gallons of hazardous waste or 1 quart of acutely hazardous waste listed in COMAR 26.13.02.19E in containers at or near any point or generation where wastes initially accumulate, which is under the control of the operator or process generating the waste, without a permit and without a permit provided certain conditions are met.

20. During the EPA inspection, the EPA inspector observed that containers of hazardous waste generated in Room 432 in Building 30 were carried to a satellite accumulation area in Room 422, away from the control of the operator of the process generating the hazardous waste.

21. Respondent violated COMAR 26.13.03.05.E. and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), by placing waste generated from a location which was not at or near the point of generation in the accumulation area inside Room 422.

COUNT II (RCRA Subtitle C - Hazardous Waste Determination)

22. Paragraphs 1-21 of this CAFO are incorporated by reference as though fully set forth herein.

23. COMAR 26.13.03.02.A provides that a person who generates a solid waste shall determine if that waste is a hazardous waste using one of the methods therein described and, if so, to manage it according to the hazardous waste regulations.

24. During the EPA inspection of Building 49, Lab room 3A71, the EPA inspector observed that a container located between two formaldehyde containers was not labeled or dated. Staff could not identify the contents of the container or whether the contents were hazardous waste.

25. Respondent violated COMAR 26.13.03.02 and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), by failing to determine if the solid wastes described in Paragraph 24, above, were hazardous wastes.

COUNT III (RCRA Subtitle I - Leak Detection Records)

26. Paragraphs 1 through 25 of the CAFO are incorporated by reference as though fully set forth herein.

27. Respondent is a department, agency and/or instrumentality of the United States and is a "person" as defined by Sections 1004(15) and 9001(5) of RCRA, 42 U.S.C. §§ 6903(15) and 6991(5), and as defined by COMAR 26.10.02.04 and 26.13.01.03.B.

28. Respondent is, and was at all times relevant hereto, the "owner" and "operator" of underground storage tanks ("USTs") as defined in COMAR 26.10.02.04 and Section 9001(3), (4), and (10) of RCRA, 42 U.S.C. § 6991(3), (4), and (10), at its Facility. At the time of the EPA Inspection, Respondent was the owner and/or operator of twenty USTs in use at the Facility, including USTs identified as UST 006 (bio-diesel), UST 007 (ethanol), UST 008 (gasoline), UST-011 (diesel), UST-017 (diesel), UST-030 (diesel) and UST-031 (diesel).

29. Respondent's USTs at its Facility referenced above in Paragraph 28 are, and were at all times relevant hereto, "petroleum UST systems" used to store "regulated substances" as defined in COMAR 26.10.02.04 and "petroleum" "USTs" used to store "regulated substances" as defined in Section 9001(1), (2) and (8) of RCRA, 42 U.S.C. § 6991(1), (2) and (8).

30. COMAR 26.10.05.01.A requires that the owner and/or operator of petroleum UST systems must provide release detection for tanks and piping as described in the Maryland regulations.

31. COMAR 26.10.05.06.B requires, in relevant part, that the results of any sampling, testing, or monitoring be maintained for at least one (1) year.

32. COMAR 26.10.04.05.C.(4) requires, in relevant part, that the owner and operator maintain documentation of recent compliance with release detection requirements. In

addition, COMAR 26.10.04.05.D.(1)(a) requires, in relevant part, that the owner and/or operator must keep the required records at the UST site and immediately available for inspection by the implementing agency. In the alternative, pursuant to COMAR 26.10.04.05.D(1)(b), the records may be kept at a readily available alternative site and be provided upon request.

33. At the time of the EPA inspection, the Facility only had five of twelve months of monthly release detection records pertaining to UST-006, UST-007 and UST-008, or their associated piping, available for review, either immediately or readily available.

34. Respondent violated COMAR 26.10.05.06.B, COMAR 26.10.04.05.C(4), COMAR 26.10.04.05.D.(1)(a), and COMAR 26.10.04.05.D.(1)(b) by not having twelve months of release detection records for UST-006, UST-007 and UST-008, or their associated piping, available for review.

COUNT IV (RCRA Subtitle I – Inspections of Corrosion Protection Systems)

35. Paragraphs 1 through 34 of the CAFO are incorporated by reference as though fully set forth herein.

36. COMAR 26.10.04.02.D(1) requires, in relevant part, that cathodic protection systems be tested within six months of installation and at least every year thereafter.

37. At the time of the EPA inspection, the Facility did not conduct testing of corrosion protection systems as follows:

    a. The cathodic corrosion protection system for UST-011 had not been tested prior to August 4, 2008, even though the tank system was installed in 1995, or in every year thereafter.

    b. The cathodic corrosion protection system for the piping associated with UST-011 had not been tested prior to May 2008, even though this tank system was installed in 1995, or in every year thereafter.

    c. The cathodic corrosion protection system for UST-017 had not been tested prior to May 2007, even though this tank system was installed in 1993, or in every year thereafter.

    d. The cathodic corrosion protection system for UST-031 had not been tested prior to April 27, 2007, having been installed at an undetermined date, or in every year thereafter.

38. Respondent violated COMAR 26.10.04.02.D(1) by not conducting inspections of cathodic protection systems on USTs identified in Paragraph 37, above, within six months of installation and at least every year thereafter.

COUNT V (RCRA Subtitle I – Maintain Records of Corrosion Protection System Testing)

39. Paragraphs 1 through 38 of the CAFO are incorporated by reference as though fully set forth herein.

40. COMAR 26.10.04.02.G(2) requires, in relevant part, that facilities maintain records documenting the results of testing from the last two inspections of the cathodic protection systems.

41. At the time of the EPA inspection, the Facility did not have records documenting the results of testing from the last two inspections of corrosion protection systems for the following USTs:

    a. A test of the cathodic corrosion protection system for UST-011 had been conducted in May 2008, but the facility was not able to provide records documenting the testing.

    b. A test of the cathodic corrosion protection system for the piping associated with UST-030 had been conducted in July 2008, but the facility was not able to provide records documenting the testing.

42. Respondent violated COMAR 26.10.04.02.G(2) by not maintaining records of its tests of cathodic protection systems for USTs identified in Paragraph 41, above.

COUNT VI (RCRA Subtitle I – Maintain Corrosion Protection System, Conduct Tests After Repairs, Maintain Test Results)

43. Paragraphs 1 through 42 of the CAFO are incorporated by reference as though fully set forth herein.

44. COMAR 26.10.04.02.B requires that all corrosion protection systems be operated and maintained to continuously provide corrosion protection to the metal components of that portion of the tank and piping that routinely contain regulated substances and are in contact with the ground.

45. COMAR 26.10.04.04.F requires that cathodic protection systems be tested within 6 months following any repairs.

46. COMAR 26.10.04.02.G(2) requires that a facility maintain records documenting the results of testing from the last two inspections of the cathodic corrosion protection system.

47. At the time of the EPA inspection, EPA inspectors observed that:

a. The Facility had installed new anodes on the piping associated with UST-017 in September 2008, fourteen (14) months after April 27, 2007 testing of the corrosion protection system for the piping associated with UST-017 had indicated that the corrosion protection criteria was not being met.

b. For fourteen months, UST-017 was not properly maintained.

c. The facility did not provide any evidence of testing of the UST's cathodic corrosion protection system after the new anodes were installed.

48. Respondent violated COMAR 26.10.04.02.B by not maintaining the corrosion protection system for UST-017.

49. Respondent violated COMAR 26.10.04.04.F by not testing the corrosion protection system for UST-017 within six months of repair.

COUNT VII (CAA – Comply With CAA Permit)

50. Paragraphs 1 through 49 of the CAFO are incorporated by reference as though fully set forth herein.

51. The Facility received a Title V operating permit effective on October 1, 2008, with an expiration date of April 13, 2013. The facility's Title V permit number is 24-031-00324-2008. This permit was in effect at the time of the EPA Inspection.

52. Section IV of the Respondent's Title V operating permit for the Facility requires the Facility to comply with a nitrogen oxide limit of 0.10 pounds per million BTU for its Boiler #5.

53. Stack testing of Boiler #5 showed exceedances of nitrogen oxide limits from December 11 to 13, 2008, with emissions of 0.1267 pounds per million BTU (gas) and 0.116 pounds per million BTU (oil).

54. After the stack testing, Boiler #5 was shut down for repairs. At the time of the inspection, Boiler #5 was not operating. When Boiler #5 was turned back on in September 2010, the stack test indicated that the nitrogen oxide emissions limitation was being met.

55. Respondent violated its Title V operating permit with respect to nitrogen oxide emission limitations from December 11, 2008 to early January 2009, when Boiler #5 was shut down for repairs.

COUNT VIII (CAA – Maintain Records of Visible Emissions)

56. Paragraphs 1 through 55 of the CAFO are incorporated by reference as though fully set forth herein.

57. Section IV of the Respondent's Title V operating permit for the Facility requires the Facility to verify that there are no visible emission emissions when burning No. 2 fuel oil for Boilers #1 through 5. The visual observation must be performed once every 168 hours of operation on oil or a minimum of once per year.

58. Section IV of Respondent's Title V operating permit requires Respondent to maintain the visible emissions observation log for a period of five years.

59. At all times relevant to this CAFO, the Facility operated using No. 2 fuel oil in Boilers #1 through #5 approximately thirty to forty percent of the time.

60. During the EPA Inspection, the Facility only had visible emission observation logs for three months, December 2004, January 2005 and January 2008. The Facility did not have visible emissions observations logs for any months during calendar years 2007 or 2009 for Boilers #1 through #5.

61. Respondent did not comply with the requirements of its Title V operating permit pertaining to maintenance of visible emissions observations logs for Boiler #1 through #5.

COUNT IX (CAA – Maintain Documents to Determine Leak rates for Refrigerants)

62. Paragraphs 1 through 60 of the CAFO are incorporated by reference as though fully set forth herein.

63. The ozone-depleting substances addressed by Subpart F of 40 C.F.R. Part 82 are those substances which are listed as Class I or Class II controlled substances in Appendices A and B of Part 82, Subpart A ("Controlled Substance"). Under 40 C.F.R. § 82.3, the term Controlled Substance includes any Class I or Class II substance, whether existing alone or in a mixture.

64. 40 C.F.R. § 82.152 defines "appliance" as any device containing and using a refrigerant for household or commercial purposes including any air conditioner, refrigerator, chiller or freezer.

65. 40 C.F.R. § 82.152 defines "refrigerant" as any substance consisting "in part or in whole" of a Class I or Class II ozone-depleting substance that is used for heat transfer purposes and provides a cooling effect.

66. 40 C.F.R. § 82.166(k) requires owners and operators of appliances containing 50 pounds or more of refrigerant to maintain service records documenting the date and type of service, quantity of refrigerant added, and the date when the refrigerant is added.

67. At all times pertinent to this action, Respondent owned and operated the following six air conditioning and refrigeration units at the Facility that each contained between 17,500 and 26,500 pounds of R-22: Chiller #16, Chiller #17, Chiller #18, Chiller #19, Chiller #20 and Chiller #21.

68. At all times pertinent to this Action, Respondent owned and operated the following six air conditioning and refrigeration units at the Facility that each contained between 17,500 pounds of R-134a: Chiller #22, Chiller #23, Chiller #24, Chiller #25, Chiller #26 and Chiller #27

69. R-22 is a refrigerant listed as a Controlled Substance Appendices A and B of 40 C.F.R. Part 82, Subpart A.

70. R-134a is a refrigerant listed as a Controlled Substance Appendices A and B of 40 C.F.R. Part 82, Subpart A.

71. The air conditioning and refrigeration units described in Paragraphs 66 and 67, above, constitute "appliances" under 40 C.F.R. § 82.152.

72. The air conditioning and refrigeration units described in Paragraphs 66 and 67 were serviced at various dates in the few years preceding the EPA inspection.

73. At all times pertinent to this action, under 40 C.F.R. § 82.166(k), Respondent was required to maintain servicing records documenting the date and type of service, quantity of refrigerant added, and the date when the refrigerant is added for appliances containing 50 pounds or more of refrigerants listed as Controlled Substances, for purpose of determining leak rates for the refrigerant from the appliances.

74. Prior to the date of the EPA Inspection, Respondent did not have procedures and did not maintain records of the date and type of service, quantity of refrigerant added, or the date when the refrigerant was added for its twelve appliances.

75. Respondent's failure to maintain adequate service records for the appliances covered by the Ozone Regulations, as identified in Paragraphs 66 and 67, is a violation of 40 C.F.R. § 82.166(k) and Section III of the Title V Permit.

CIVIL PENALTY

76. Respondent consents to the assessment of a civil penalty of **Forty Thousand Seven Hundred Forty-Two Dollars ($40,742.00)** in full satisfaction of all claims for civil penalties for the violations alleged in the above alleged thirteen counts of this CAFO. Respondent must pay the civil penalty no later than **SIXTY (60)** calendar days after the date on which this CAFO is mailed or hand-delivered to Respondent.

77. Respondent consents to the issuance of this Consent Agreement, and consents for purposes of settlement to the payment of the civil penalty cited in the foregoing Paragraph and to performance of the Supplemental Environmental Project, as set forth below.

78. For the violations alleged in Counts I - II, EPA considered a number of factors including, but not limited to, the statutory factors set forth in Section 3008(a)(3) of the RCRA, 42 U.S.C. § 6928(a)(3), *i.e.*, the seriousness of Respondent's violations and the good faith efforts by Respondent to comply with the applicable requirements of the RCRA, and the *RCRA Civil Penalty Policy* (2003). EPA has also considered the *Adjustments of Civil Penalties for Inflation and Implementing the Debt Collection Improvement Act of 1996* ("DCIA"), as set forth in 40 C.F.R. Part 19, and the December 29, 2008 memorandum by EPA Assistant Administrator Granta Y. Nakayama entitled, *Amendments to EPA 's Civil Penalty Policies to Implement the 2008 Civil Monetary Penalty Inflation Adjustment Rule (Effective January 12, 2009)* ("2008 Nakayama Memorandum"), which specify that for violations that occurred after January 30, 1997, statutory penalties and penalties under the RCRA Civil Penalty Policy for, *inter alia*, RCRA Subtitle C violations, were increased 10% above the maximum amount to account for inflation and, statutory penalties for, *inter alia*, RCRA Subtitle C violations that occurred after March 15, 2004 through January 12, 2009, were increased by and an additional 17.23% above the maximum amount to account for inflation.

79. For the violation alleged in Counts III-VI, EPA considered a number of factors, including, but not limited to: the statutory factors of the seriousness of Respondent's violations and any good faith efforts by Respondent to comply with all applicable requirements as provided in RCRA Section 9006(d), 42 U.S.C. § 6991e(d), and EPA's *Penalty Guidance for Violations of UST Regulations* ("UST Guidance") dated November 4, 1990. EPA has also considered the DCIA, as set forth in 40 C.F.R. Part 19, and the 2008 Nakayama Memorandum, which specify that for violations that occurred after January 30, 1997, statutory penalties and penalties under the UST Guidance were increased 10% above the statutory maximum amount to account for inflation and, statutory penalties for violations that occurred after March 15, 2004 through January 12, 2009, were increased by an additional 17.23% above the maximum amount to account for inflation.

80. For the violation alleged in Counts VII-IX, EPA considered a number of factors, including, but not limited to the penalty assessment criteria in Section 113(e) of the CAA,

42 U.S.C. § 7413(e), including the seriousness of Respondent's violations and Respondent's good faith efforts to comply, and the *Clean Air Act Stationary Source Civil Penalty Policy* (1991). EPA has also considered the DCIA, as set forth in 40 C.F.R. Part 19, and the 2008 Nakayama Memorandum ,which specify that for violations occurring after January 30, 1997, statutory penalties and penalties under the Clean Air Act Stationary Source Civil Penalty Policy were increased 10% above the statutory maximum amount to account for inflation and, statutory penalties for violations that occurred after March 15, 2004 through January 12, 2009, were increased by an additional 17.23% above the maximum amount to account for inflation.

81. Payment of the civil penalty amount required under the terms of Paragraph 76, above, shall be made by either cashier's check, certified check or electronic wire transfer, in the following manner:

a. All payments by Respondent shall reference its name and address and the Docket Number of this action (Docket No. CAA-03-2012-0099);

b. All checks shall be made payable to "**United States Treasury**;"

c. All payments made by check and sent by regular mail shall be addressed and mailed to:

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

The Customer Service contact for the above method of payment is Heather Russell at 513-487-2044.

d. All payments made by check and sent by overnight delivery service shall be addressed and sent to:

U.S. Bank
Government Lockbox 979077
U.S. EPA, Fines & Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

The Customer Service number for the above method of payment is 314-418-1028.

e. All electronic wire transfer payments shall be directed to:

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"

f. All payments through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX/Cashlink ACH Receiver
ABA = 051036706
Transaction Code 22 - checking
Account 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – Checking

Physical location of U.S. Treasury Facility:

5700 Rivertech Court
Riverdale, MD 20737

The Customer Service contact for the above method of payment is Jesse White at 301-887-6548, or REX at 1-866-234-5681.

g. There is an on-line payment option available through the Department of the Treasury. This payment option can be accessed from: WWW.PAY.GOV. Enter sfo 1.1 in the search field and complete all required fields in the form.

h. At the same time that any payment is made, Respondent shall mail copies of any corresponding check, or written notification confirming any electronic wire transfer, to:

Ms. Lydia Guy
Regional Hearing Clerk (3RC00)
U.S. Environmental Protection Agency
Region III
1650 Arch Street
Philadelphia, PA 19103-2029

and

Cynthia T. Weiss (3RC42)
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency, Region III
1650 Arch Street
Philadelphia, PA 19103-2029

82. In accordance with 40 C.F.R. § 13.3, any debt owed to the EPA as a result of Respondent's failure to make timely payments in accordance with Paragraph 76 above, shall be resolved by negotiation between the EPA and Respondent or by referral to the General Accounting Office.

SUPPLEMENTAL ENVIRONMENTAL PROJECT (SEP)

83. Respondent shall complete the SEP described in the Scope of Work, which is attached hereto as Attachment A and incorporated herein by reference, which the parties agree is intended to secure significant environmental benefits or public health protection and improvements. The SEP, a fleet electric vehicle conversion, requires purchase of two electric cars and the purchase and installation of a charging station at the Facility, and shall be completed in accordance with the schedule set forth in the Scope of Work.

84. The total expenditure for the SEP shall be not less than the amount specified in the Scope of Work. Respondent shall include documentation of the expenditures made in connection with the SEP as part of the SEP Completion Report.

85. Respondent hereby certifies that, as of the date of this Consent Agreement, Respondent is not required to perform or develop the SEP by any federal, state or local law or regulation; nor is Respondent required to perform or develop the SEP by any other agreement, grant or as injunctive relief in this or any other case. Respondent hereby certifies that, as of the date of this Consent Agreement, Respondent is not required to perform or develop the SEP by any Executive Order. Respondent further certifies that it has not received, and is not presently negotiating to receive, credit in any other enforcement action for the SEP.

86. **Reporting**

a. Within five calendar days of completion of the SEP, Respondent will inform EPA in writing of such completion.

b. **SEP Completion Report.** Respondent shall submit a SEP Completion Report to EPA for the SEP in accordance with the Scope of Work and the schedule set forth therein. The SEP Completion Report shall be due to EPA within thirty (30)

calendar days after completion of the SEP. The SEP Completion Report shall contain the following information:

(i) A detailed description of the SEP as implemented;

(ii) A description of any operating problems encountered and the solutions thereto;

(iii) Itemized costs for the entire project; and

(iv) Certification that the SEP has been fully implemented pursuant to the provisions of this CAFO.

c. Respondent agrees that failure to submit the SEP Completion Report shall be deemed a violation of this CAFO and Respondent shall become liable for additional civil penalties pursuant to Paragraph 88, below.

d. Respondent shall submit all notices and reports pertaining to the SEP required by this Consent Agreement and Final Order by overnight mail to:

Garth Connor (3EC00)
U.S. Environmental Protection Agency
1650 Arch Street
Philadelphia, PA 19103-2029

and

Cynthia T. Weiss (3RC42)

Senior Assistant Regional Counsel
U.S. Environmental Protection Agency
1650 Arch Street
Philadelphia, PA 19103-2029

e. In itemizing its costs in the SEP Completion Report, Respondent shall clearly identify and provide acceptable documentation for all eligible SEP costs. Where the SEP Completion Report includes costs not eligible for SEP credit, those costs must be clearly identified as such. Eligible SEP costs include the costs of purchasing the equipment, but do not include overhead, additional employee time and salary expended in purchasing the equipment, administrative expenses, and legal fees. For purposes of this Paragraph, "acceptable documentation" includes invoices, purchase orders, or other documentation that specifically identifies and itemizes the individual costs of the goods and/or services for which payment is being made. Cancelled drafts do not constitute acceptable documentation unless

such drafts specifically identify and itemize the individual costs of the goods and/or services for which payment is being made.

f. In the SEP Completion Report submitted to EPA pursuant to this CAFO, Respondent shall sign and certify, by a principal executive officer as defined at 40 C.F.R. § 270.11(a)(3), under penalty of law that the information contained in such document or report is true, accurate, and not misleading by signing the following statement:

> I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

87. EPA Acceptance of SEP Completion Report

a. After receipt of the SEP Completion Report described in Paragraph 86, above, EPA will notify the Respondent, in writing, regarding: (i) any deficiencies in the SEP Completion Report itself along with a grant of an additional thirty (30) calendar days for Respondent to correct any deficiencies; or (ii) indicate that EPA concludes that the project has been completed in accordance with the CAFO; or (iii) determine that the project has not been completed in accordance with the CAFO and seek additional civil penalties in accordance with Paragraph 88, below.

b. If EPA elects to exercise option (i) above, *i.e.*, if the SEP Completion Report is determined to be deficient, but EPA has not yet made a final determination about the adequacy of the SEP completion itself, EPA shall permit Respondent the opportunity to object in writing to the notification of deficiency given pursuant to this Paragraph within ten (10) calendar days of receipt of such notification. EPA and Respondent shall have an additional thirty (30) calendar days from the receipt by EPA of the notification of objection to reach agreement on changes necessary to the SEP Completion Report. If agreement cannot be reached on any such issue within this thirty (30) day period, EPA shall provide a written statement of its decision on adequacy of the completion of the SEP to Respondent, which decision shall be final and binding upon Respondent. In the event the SEP is not completed as contemplated herein, as determined by EPA, additional civil penalties shall be due and payable by Respondent to EPA in accordance with Paragraph 88, below.

88. Additional Civil Penalties

a. In the event that Respondent fails to comply with any terms or provision of this CAFO relating to the performance of the SEP and/or to the extent that the actual expenditures for the SEP do not equal or exceed the cost of the SEP described in the Scope of Work, Respondent shall be liable for additional civil penalties according to the provisions set forth below:

(i) Except as provided in subparagraph (ii) immediately below, if the SEP has not been completed in accordance this CAFO, Respondent shall pay an additional civil penalty to the United States of $56,653.00.

(ii) If the SEP is not completed in accordance with the CAFO, but EPA determines that Respondent: a) made good faith and timely efforts to complete the project; and b) certifies, with supporting documentation, that at least ninety (90) percent of the amount of money which was required to be spent for that SEP was actually expended on the SEP, Respondent shall not be liable for any additional civil penalty.

(iii) If the SEP is completed in accordance with the CAFO, but the Respondent spent less than ninety (90) percent of the amount required to be spent for that SEP, Respondent shall pay an additional civil penalty to the United States of $5,665.00.

(iv) If the SEP is completed in accordance with the CAFO and the Respondent spent at least ninety (90) percent of the amount of money required to be spent for the SEP, Respondent shall not be liable for any additional civil penalty.

(v) For failure to submit the SEP Completion Report required by Paragraph 86, above, Respondent shall pay an additional civil penalty in the following amounts for each day after the date that the report is due until the report is submitted: for calendar days one (1) through ten (10), an additional penalty of $250.00, and for every calendar day thereafter a penalty of $500.00.

b. The determination of whether the SEP has been completed in accordance with the CAFO and whether the Respondent has made a good faith, timely effort to implement the SEP shall be in the sole discretion of EPA.

c. The additional civil penalty specified in subparagraph (v) above shall begin to accrue on the day after performance is due and shall continue to accrue through the final day of completion of the activity.

d. Respondent shall pay any additional civil penalties not more than thirty (30) calendar days after receipt of a written demand for such penalties by EPA. The method of payment shall be in accordance with the provisions of Paragraph 81, above. Payment of any debt which arises as a result of late payment of an additional civil penalty shall be resolved in accordance with Paragraph 82.

e. Nothing in this agreement shall be construed as prohibiting, altering or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondent's violation of this CAFO or, excepting matters with respect to which Respondent is released hereunder, of the statutes and regulations upon which this agreement is based, or for Respondent's violation of any applicable provision of law.

89. Any public statement, oral or written, in film or other media, made by Respondent making any reference to the SEP or its resultant environmental benefits in part or in total shall include the following language, "This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental Protection Agency for alleged violations of environmental statutes and regulations."

90. This CAFO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state or 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, nor shall it be construed to constitute EPA approval of the equipment or technology installed by Respondent in connection with the SEP undertaken pursuant to this CAFO.

91. Force Majeure

a. If any event occurs which causes or may cause delays in the completion of the SEP as required under this CAFO, Respondent shall notify EPA in writing not more than fifteen (15) calendar days after the delay or Respondent's knowledge of the anticipated delay, whichever is earlier. The notice shall describe in detail the anticipated length of the delay, the precise cause or causes of the delay, the measures taken and to be taken by Respondent to prevent or minimize the delay, and the timetable by which those measures will be implemented. The Respondent shall adopt all reasonable measures to avoid or minimize any such delay. Failure by Respondent to comply with the notice requirements of this Paragraph shall render this Paragraph void and of no effect as to the particular incident involved and constitute a waiver of the Respondent's right to request an extension of its obligation under this CAFO based on such incident.

b. If the Respondent and EPA agree that the delay or anticipated delay in compliance with the CAFO has been or will be caused by circumstances entirely beyond the control of Respondent, the time for performance hereunder may be extended for a

period no longer than the delay resulting from such circumstances. In such event, Respondent and EPA shall stipulate, in writing, to such extension of time.

c. In the event that EPA does not agree that a delay in achieving compliance with the requirements of the CAFO has been or will be caused by circumstances beyond the control of the Respondent, EPA will notify Respondent in writing of its decision and any delays in the completion of the SEP shall not be excused.

d. The burden of proving that any delay is caused by circumstances beyond the control of the Respondent shall rest with the Respondent. Increased costs or expenses associated with the implementations of actions called for by this CAFO shall not, in any event, be a basis for change in this CAFO or extensions of time under section (b) of this Paragraph. Delay in achievement of one interim step shall not necessarily justify or excuse delay in achievement of subsequent steps.

EFFECT OF SETTLEMENT

92. Payment of the penalty specified in Paragraph 76, above, in the manner set forth in Paragraph 81, above, shall constitute full and final satisfaction of all civil claims for penalties which Complainant may have under RCRA Subtitle C, RCRA Subtitle I and the CAA for the specific violations alleged in Counts I-IX, above. Compliance with this CAFO shall not be a defense to any action commenced at any time for any other violation of the federal laws and regulations administered by EPA.

RESERVATION OF RIGHTS

93. This CAFO resolves only the civil claims for monetary penalties for the specific violations alleged in the CAFO. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its filing with the Regional Hearing Clerk. Respondent reserves all available rights and defenses it may have to defend itself in any such action.

FULL AND FINAL SATISFACTION

94. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Sections 3008 and 9006 of RCRA, 42 U.S.C. §§ 6928 and 6991e, and Section 113 of the CAA. 42 U.S.C. § 7413, for the specific violations alleged in this CAFO. This CAFO

constitutes the entire agreement and understanding of the parties regarding settlement of all claims pertaining to specific violations alleged herein, and there are no representations, warranties, covenants, terms, or conditions agreed upon between the parties other than those expressed in this CAFO.

ANTIDEFICIENCY ACT

95. Failure to obtain adequate funds or appropriations from Congress does not release Respondent from its obligation to comply with RCRA, the applicable regulations thereunder, or with this CAFO. Nothing in this CAFO shall be interpreted to require obligation or payment of funds in violation of the Antideficiency Act, 31 U.S.C. § 1341.

AUTHORITY TO BIND THE PARTIES

96. The undersigned representative of Respondent certifies that he or she is fully authorized by the Respondent to enter into the terms and conditions of this Consent Agreement and to bind the Respondent to it.

EFFECTIVE DATE

97. This CAFO shall become effective upon filing with the Regional Hearing Clerk.

For Respondent:

4 March 2012

Date

National Institutes of Health

Name: Daniel G. Wheeland
Title: Director, Office of Research Facilities
National Institutes of Health

Date

Name:
Title:

For Complainant:

U.S. Environmental Protection Agency,
Region III

3/12/12
Date

Cynthia T. Weiss
Senior Assistant Regional Counsel
U.S. EPA - Region III

Accordingly, I hereby recommend that the Regional Administrator or his designee, the Regional Judicial Officer, issue the Final Order attached hereto.

3/20/12
Date

Samantha P. Beers, Director
Office of Enforcement, Compliance, and
Environmental Justice
U.S. EPA - Region III

Attachment A

DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

National Institutes of Health
Office of Research Facilities
Bethesda, Maryland 20892-5746

Division of Environmental Protection
Bldg. 13/2S11, MSC 5746
Phone: 301-496-7775
Fax: (301) 480-8056

January 18, 2012

Mr. Garth Connor (3EC10)
Director
Office of Enforcement, Compliance and Environmental Justice
United States Environmental Protection Agency (EPA)
Region III
1640 Arch Street
Philadelphia, Pennsylvania 19103-2029

Re: EPA Request for Additional SEP Information Concerning Alleged Violations

Dear Mr. Connor:

As requested in the Environmental Protection Agency's November 16, 2011, letter concerning the Invitation to Settlement, the National Institutes of Health (NIH) provides the following additional information regarding the proposed Supplemental Environmental Projects (SEP).

The NIH is proposing to proceed with one project as a SEP:

Fleet Electric Vehicle conversion - $91,500

As an initial step in moving the NIH fleet to electric two new vehicles, a Chevy Volt and a Nissan Leaf are planned for purchase in the 1st quarter of calendar year 2012. The cost for these vehicles is listed below:

Nissan Leaf - $33, 000
Chevy Volt - $44,000

Charging station excluding installation - $4,500 (Installation date not resolved but will need to be timed according to the vehicle purchases). The cost of installing the charging station will be approximately $10,000. Approximately 30 off-road vehicles will also be replaced with all electric vehicles through a lease arrangement later in the FY.

The NIH believes that the purchase of the electric motor vehicles and the installation of the charging station will satisfy several of the SEP quality criteria set forth in the EPA's November

16 letter, including innovativeness and pollution prevention. We understand the SEP proposed will only offset a portion of the proposed CAA identify fine amount of $75,527 as noted in your November 16, 2011 letter.

The NIH had also proposed other SEPs, however complexities with these, "Bulk Fuel Loading Containment Area Upgrade" and "Enhanced Environmental Tracking System," will delay their implementation and would further delay this response, and we have decided to remove these projects from consideration as SEPs.

We continue to emphasize compliance with EPA requirements and stress the areas of concerns noted during your inspection. Let me know if you have any questions or if I can provide additional information.

Sincerely,

William K. Floyd, Director
Division of Environmental Protection, ORF
National Institutes of Health

Supplemental Environmental Project Schedule

Here is the schedule for meeting the EPA Supplemental Environmental Project requirements associated with our settlement agreement Docket No. CAA-03-2012-0099.

1. Purchase or lease 2 electric vehicles by end of March 2012:

    a) Nissan Leaf

    b) Chevy Volt

2. Purchase 1 Coulomb CT1000 vehicle charging station by end of March 2012 - includes 28 SunTech 185 watt Solar PV modules; 28 Enphase Micro-inverters; Rack mounting system with rails, tilt legs, and roof connectors @ 10 degrees tilt.

3. Install charging station, solar array and complete commissioning of vehicles and charging system by end of April 2012.

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

IN RE:	:	
	:	
	:	
National Institutes of Health,	:	
	:	
Respondent,	:	
	:	**Docket No. CAA-03-2012-0099**
9000 Rockville Pike	:	
Bethesda, Maryland 20892	:	
	:	
Facility.	:	

FINAL ORDER

Complainant, the Director of the Office of Enforcement, Compliance, and Environmental Justice, U.S. Environmental Protection Agency - Region III, and Respondent, the National Institutes of Health, have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22, with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based on the representations of the parties set forth in the Consent Agreement, I have determined that the penalty assessed herein is based upon a consideration of the factors set forth in Sections 3008(a) and 9006(c) of the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6928(a) and 6991e(c), EPA's 2003 RCRA Civil Penalty Policy, EPA's November 1990 Penalty Guidance for Violations of UST Regulations, the factors set forth in Section 113(e) of the Clean Air Act, 42 U.S.C. § 7413(e), EPA's 1991 Clean Air Act Stationary Source Civil Penalty Policy, and the Consolidated Rules of Practice. **IT IS HEREBY ORDERED** that Respondent pay a penalty of **FORTY THOUSAND SEVEN HUNDRED FORTY-TWO DOLLARS ($40,742.00)** in accordance with the foregoing Consent Agreement. Payment shall be made in the manner set forth in the foregoing Consent Agreement. Payment shall reference Respondent's name and address as well as the EPA Docket Number of this Final Order (Docket No. CAA-03-2012-0099).

The effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

4/3/12
Date

Renée Sarajian
Regional Judicial Officer
U.S. Environmental Protection Agency, Region III

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

IN RE:	:	
	:	
	:	
National Institutes of Health,	:	
	:	
Respondent.	:	
	:	**Docket No. CAA-03-2012-0099**
9000 Rockville Pike	:	
Bethesda, Maryland 20892,	:	
	:	
Facility.	:	

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the date provided below, I hand-delivered and filed the original of the United States Environmental Protection Agency's, Consent Agreement and Final Order, with the Regional Hearing Clerk, EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029, and that a true and correct copy of the Consent Agreement and Final Order was sent to:

Via certified mail, return receipt requested
William K. Floyd
Director, Division of Environmental Protection
Office of Research Facilities, OM
9000 Rockville Pike
Bethesda, MD 20892-5746

DATE: April 3, 2012

Cynthia T. Weiss (3RC42)
Senior Assistant Regional Counsel
Counsel for Complainant
(215) 814-2659

EPA Region III Enters into SuperCAFO with National Institutes of Health [Docket Nos. CAA-03-2012-0099, RCRA-03-2012-0099] On April 3, 2012, the Regional Judicial Officer issued a Final Order, accepting the Consent Agreement to settle violations by the National Institutes of Health ("NIH") at its campus located at 9000 Rockville Pike in Bethesda, Maryland. The violations were uncovered during a multimedia inspection conducted by OECEJ from July13-17, 2009 and July 30, 2009. The CAFO resolves claims arising from NIH's failure to comply with satellite accumulation and hazardous waste determination requirements under RCRA Subtitle C; inspection and recordkeeping requirements under RCRA Subtitle I; emission limitations and recordkeeping requirements in its CAA Title V permit; and recordkeeping requirements in the CAA stratospheric ozone protection regulations. EPA also identified violations of the CWA, TSCA and EPCRA at the facility during the inspection, which NIH has addressed. In settlement, Respondent has agreed to pay a cash penalty of $40,742 and purchase two electric cars for its fleet and install a charging station, a supplemental environmental project valued at $102,118. **Primary Contact: Cynthia Weiss, (215) 814-2659, Additional Contact: Garth Connor, (215) 814-3209.**

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

April 3, 2012

HAND DELIVERY
Lydia Guy
Regional Hearing Clerk (3RC00)
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029

Re: **National Institutes of Health**
Consent Agreement and Final Order
U.S. EPA Docket Nos. CAA-03-2012-0099, RCRA-03-2012-0099

Dear Ms. Guy:

Enclosed please find the original and one copy of a Consent Agreement and Final Order, along with a certificate of service.

Sincerely yours,

Cynthia T. Weiss
Senior Assistant Regional Counsel

Enclosures
cc: William K. Floyd
Director, Division of Environmental Protection
Office of Research Facilities, OM
9000 Rockville Pike
Bethesda, MD 20892-5746

Garth Connor