



2. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

### **JURISDICTION**

3. The U.S. Environmental Protection Agency has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.
4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(6).

### **GENERAL PROVISIONS**

5. For purposes of this proceeding only, Respondents admit the jurisdictional allegations set forth in this Consent Agreement and Final Order.
6. Except as provided in Paragraph 5, above, Respondents neither admit nor deny the specific factual allegations set forth in this Consent Agreement.
7. Respondents agree not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this Consent Agreement and Final Order.
8. For purposes of this proceeding only, Respondents hereby expressly waive their right to contest the allegations set forth in this Consent Agreement and Final Order and waive their right to appeal the accompanying Final Order.
9. Respondents consent to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.
10. Respondents shall bear their own costs and attorney's fees in connection with this proceeding.
11. Pursuant to Section 309(g)(4)(A) of the CWA, 33 U.S.C. § 1319(g)(4)(A), and 40 C.F.R. § 22.45(b), EPA is providing public notice and an opportunity to comment on the Consent Agreement prior to issuing the Final Order.

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

12. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.

**A. STATUTORY AND REGULATORY BACKGROUND**

13. Section 309(g)(2)(B) of the CWA, 33 U.S.C. § 1319(g)(2)(B), authorizes the assessment of administrative penalties against any person who violates any National Pollutant Discharge Elimination System (“NPDES”) permit condition or limitation in an amount not to exceed \$10,000 per day for each violation, up to a total penalty amount of \$125,000.
14. Pursuant to the Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. 19.4, Table 2, and Section 309(g)(2)(B) of the CWA, 33 U.S.C. § 1319(g)(2)(B), any person who has violated any NPDES permit condition or limitation after November 2, 2015 where the penalty is assessed on or after December 23, 2020, the maximum administrative penalty per day for each violation is up to \$22,584, up to a penalty amount of \$282,293. (Part 19 also specifies the maximum penalties applicable to other time periods.)
15. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of any “pollutant” (other than dredged or fill material) from a point source into waters of the United States, except in compliance with a permit issued pursuant to the NPDES program under Section 402 of the CWA, 33 U.S.C. § 1342.
16. Section 402(a) of the CWA, 33 U.S.C. § 1342(a) provides that the Administrator of EPA may issue permits under the NPDES program for the discharge of pollutants from point sources to waters of the United States. The discharges are subject to specific terms and conditions as prescribed in the permit. Section 402(b) of the CWA, 33 U.S.C. § 1342(b) provides that the Administrator may authorize a state to issue NPDES permits.
17. Section 402(p) of the CWA, 33 U.S.C. § 1342(p), and 40 C.F.R. Sections 122.2 and 122.26 provide that, with some exceptions not pertinent here, storm water dischargers are “point sources” subject to NPDES permitting requirements under Section 402(a) of the CWA, 33 U.S.C. § 1342(a).
18. “Pollutant” is defined as “dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.” Section 502(6) of the CWA, 33 U.S.C. § 1362(6); 40 C.F.R. § 122.2.
19. “Storm water” is defined as “storm water runoff, snow melt runoff and surface runoff and drainage.” 40 C.F.R. § 122.26(b)(13).
20. “Storm water discharge associated with industrial activity” means “the discharge from any conveyance that is used for collecting and conveying storm water and that is directly related to manufacturing processing or raw materials storage areas at an industrial plant” and “includes, but is not limited to, storm water discharges from industrial plant yards;

immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility; material handling sites; refuse sites; sites used for the application or disposal of process waste waters . . . ; sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and final products . . . .” 40 C.F.R. § 122.26(b)(14).

21. An NPDES permit is required for storm water discharges associated with industrial activity. CWA Section 402(p), 33 U.S.C. § 1342(p); 40 C.F.R. § 122.26(a)(6), (c); 40 C.F.R. § 122.21.
22. Facilities within the categories set out in 40 C.F.R. § 122.26(b)(14), including those in Standard Industrial Classification (“SIC”) code 5015 (Auto Salvage Yard—Sector M) are industrial activities that must obtain permit authorization for stormwater discharges.
23. Dischargers of stormwater associated with industrial activities to waters of the United States are required to seek NPDES permit coverage. 40 C.F.R. § 122.26(c).
24. Section 402(b) of the CWA, 33 U.S.C. § 1342(a), provides that the Administrator of EPA may authorize states to issue permits under the NPDES Program.
25. The State of Maryland and the Commonwealth of Pennsylvania have been approved by EPA to administer the NPDES permit program in their respective states pursuant to Section 402(b) of the CWA, 33 U.S.C. § 1342(b).
26. The State of Maryland, through the Maryland Department of the Environment (“MDE”) has incorporated the NPDES Permit program requirements of the CWA, 33 U.S.C. § 1342 in Title 9 of the Environment Article, Annotated Code of Maryland (“Maryland Stormwater Regulations”). Similarly, the Commonwealth of Pennsylvania, through the Pennsylvania Department of Environmental Protection (“PADEP”), has incorporated the NPDES Permit program requirements of the CWA, 33 U.S.C. § 1342, into its Clean Streams Law, as amended, 35 P.S. § 691.1 et seq.,
27. Pursuant to the authority of the CWA, MDE issued a General Discharge Permit For Storm Water Associated with Industrial Activities, General Permit No. 12-SW, on January 1, 2014 (modified December 7, 2018) (“Maryland General Permit”). The Maryland General Permit had an expiration date of December 31, 2018, but was administratively extended and is still in effect.
28. Pursuant to the authority of the CWA, PADEP issued an NPDES General Permit for Discharges of Stormwater Associated with Industrial Activity General Permit, PAG-03, on September 24, 2016 (“Pennsylvania General Permit”).

29. Collectively the Maryland General Permit and the Pennsylvania General Permit will be referred to herein as the “General Permits”. The General Permits are issued for 5-year terms and require facilities that discharge storm water to a surface body of the state to comply with specific requirements governing storm water discharges associated with industrial activities.
30. The General Permits authorize the discharge of stormwater associated with industrial activity in accordance with the provisions of the respective state’s General Permit.
31. A violation of a General Permit is also a violation of the CWA and may be subject to penalties established under that statute.

**B. RESPONDENTS AND THEIR FACILITIES**

32. Respondents Potomac German Auto, Inc. and LKQ Northeast, Inc. are wholly-owned subsidiaries of LKQ Corporation.
33. As a corporation, incorporated in the State of Maryland, Respondent Potomac German Auto, Inc. is a “person” under Section 502(5) of the CWA, 33 U.S.C § 1362(5), and 40 C.F.R. § 122.2.
34. As a corporation, incorporated in the State of Delaware, Respondent LKQ Northeast, Inc. is a “person” under Section 502(5) of the CWA, 33 U.S.C § 1362(5), and 40 C.F.R. § 122.2.
35. Respondent Potomac German Auto, Inc. is, and at all times relevant to this Consent Agreement was, the owner and operator of auto salvage yards at the following locations:
  - a. DBA LKQ Pick Your Part/Jessup  
Potomac German Auto, Inc.  
8125 Washington Blvd,  
Jessup, MD 20794
  - b. DBA LKQ Pick Your Part /Mount Airy  
Potomac German Auto, Inc.  
3923 Twin Arch Rd,  
Mt. Airy, MD 21771
  - c. LKQ Pick Your Part / Edgewood  
Potomac German Auto, Inc.  
1706 Pulaski Hwy,  
Edgewood, MD 21040
  - d. DBA LKQ Pick Your Part  
DBA LKQ Potomac German Auto Parts

4305 Lime Kiln Road,  
Frederick, MD 21703

- e. LKQ Pick Your Part / Baltimore  
Potomac German Auto, Inc.  
6201 Erdman Ave,  
Baltimore, MD 21205
  - f. LKQ Pick Your Part / Balt (Hawkins)  
Potomac German Auto, Inc.  
2801 Hawkins Point Rd,  
Baltimore, MD 21226
36. Respondent LKQ Northeast, Inc. is, and at all times relevant to this Consent Agreement was, the owner and operator of auto salvage yards at the following locations:
- a. DBA LKQ Heavy Truck Parts  
LKQ Northeast, Inc.  
29368 Matthewstown Road,  
Easton, MD 21601
  - b. LKQ Penn-Mar Inc.  
269 River Road,  
York Haven, PA 17370
37. Collectively, the auto salvage yards owned and operated by Respondents, and listed in Paragraphs 35 and 36, above, will be referred to as the “Facilities.”
38. At the Facilities, Respondents purchase unusable vehicles, dismantle them for parts, and conduct the retail sale of both the reusable parts and the remaining unsalvageable parts as crushed scrap metal.
39. The primary Standard Classification (“SIC”) Code for each Facility in Paragraphs 35 and 36 is 5015 (Auto Salvage Yard—Sector M), NAICS Code 423930 (Auto Salvage Yard).
40. At the Facilities, Respondents are, and at all times relevant to this Consent Agreement were, engaging in “industrial activity” at the Facilities, within the meaning of 40 C.F.R. § 122.26(a)(1)(ii).
41. Respondents had applied for and were granted coverage under the Maryland General Permit and the Pennsylvania General Permit, under the Permit numbers listed below.
42. **MT. AIRY, MD:** At all times relevant to this Order, Respondent Potomac German Auto, Inc. has owned and/or operated an auto salvage yard known as LKQ Pick Your Part/Mount Airy, located at or near 3923 Twin Arch Road, Mt. Airy, MD 21771.

43. The LKQ Pick Your Part/Mount Airy Facility discharges stormwater into the South Branch Patapsco River, which flows to the Patapsco River, which flows to the Chesapeake Bay. The South Branch Patapsco River is a “water of the United States” within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7).
44. The discharges of stormwater from the LKQ Pick Your Part/Mount Airy Facility were authorized by the Maryland General Permit, under Permit Number MDR003074.
45. **EDGEWOOD, MD:** At all times relevant to this Order, Respondent Potomac German Auto, Inc. has owned and/or operated an auto salvage yard known as LKQ Pick Your Part/Edgewood, located at or near 1706 Pulaski Hwy, Edgewood, MD 21040.
46. The LKQ Pick Your Part/Edgewood Facility discharges stormwater into Lower Winters Run, which flows into Winters Run, which flows into the Bush River, which flows to the Chesapeake Bay. Lower Winters Run is a “water of the United States” within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7).
47. The discharges of stormwater from the LKQ Pick Your Part/Edgewood Facility were authorized by the Maryland General Permit, under Permit Number MDR002259.
48. **FREDERICK, MD:** At all times relevant to this Order, Respondent LKQ Northeast, Inc. had owned and/or operated an auto salvage yard known as LKQ Pick Your Part at or near 4305 Lime Kiln Road, Frederick, MD 21703. (LKQ Northeast, Inc. closed this facility in March 2021, and MDE terminated its NPDES Permit on August 20, 2021.)
49. The LKQ Pick Your Part Facility in Frederick, MD discharged stormwater into the Lower Monocacy River, which flows to the Monocacy River, which flows to the Potomac River, which flows to the Chesapeake Bay. The Lower Monocacy River is a “water of the United States” within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7).
50. The discharges of stormwater from the LKQ Pick Your Part Facility were authorized by the Maryland General Permit, under Permit Number MDR002069.
51. **ERDMAN, MD:** At all times relevant to this Order, Respondent Potomac German Auto, Inc. has owned and/or operated an auto salvage yard known as LKQ Pick Your Part (1205)/Baltimore, located at or near 6201 Erdman Ave, Baltimore, MD 21205.
52. The LKQ Pick Your Part/Baltimore Facility discharges stormwater into the Back River, which flows to the Chesapeake Bay. The Back River is a “water of the United States” within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7).
53. The discharges of stormwater from the LKQ Pick Your Part/Baltimore Facility were authorized by the Maryland General Permit, under Permit Number MDR001257.

54. **HAWKINS POINT, MD:** At all times relevant to this Order, Respondent Potomac German Auto, Inc. has owned and/or operated an auto salvage yard known as LKQ Pick Your Part/Balt (Hawkins), located at or near 2801 Hawkins Point Road, Baltimore, MD 21226.
55. The LKQ Pick Your Part/Balt (Hawkins) Facility discharges stormwater into Baltimore Harbor, which flows to the Patapsco River, which flows to the Chesapeake Bay. Baltimore Harbor is a “water of the United States” within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7).
56. The discharges of stormwater from the LKQ Pick Your Part/Balt (Hawkins) Facility were authorized by the Maryland General Permit, under Permit Number MDR001880.
57. **EASTON, MD:** At all times relevant to this Order, Respondent LKQ Northeast, Inc. has owned and/or operated an auto salvage yard known as LKQ Heavy Truck Parts at or near 29368 Matthewstown Road, Easton, MD 21601.
58. The LKQ Heavy Truck Parts Facility discharges stormwater into the Lower Choptank River, which flows to the Choptank River, which flows to the Chesapeake Bay. The Lower Choptank River is a “water of the United States” within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7).
59. The discharges of stormwater from the LKQ Heavy Truck Parts Facility were authorized by the Maryland General Permit, under Permit Number MDR001037.
60. **YORK HAVEN, PA:** At all times relevant to this Order, Respondent LKQ Northeast, Inc. has owned and/or operated an auto salvage yard known as LKQ Penn-Mar, Inc. at or near 269 River Road, York Haven, PA 17370.
61. The LKQ Penn-Mar, Inc. Facility discharges stormwater into an unnamed tributary to the Susquehanna River, which flows to the Susquehanna River, which flows to the Chesapeake Bay. The unnamed tributary to the Susquehanna River is a “water of the United States” within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7).
62. The discharges of stormwater from the LKQ Penn-Mar, Inc. Facility were authorized by the Pennsylvania General Permit, under Permit Number PAR603587.
63. The General Permits require the Respondents to implement and maintain certain Best Management Practices (“BMP”) to prevent pollution and minimize the exposure of industrial activities to precipitation and runoff.
64. The General Permits require the Respondents to develop and implement a Preparedness, Prevention, and Contingency Plan (“PPC Plan”) to minimize the potential for leaks, spills or releases that may be exposed to stormwater.



**C. INVESTIGATION**

65. On June 11, 2020, EPA sent an information request letter (“IRL”) to LKQ, pursuant to its authority under Section 308 of the CWA, 33 U.S.C. § 1318, in order to gather information about the seven facilities in Maryland (Jessup,<sup>1</sup> Mt. Airy, Easton, Frederick, Edgewood, Erdman, and Hawkins Point). LKQ responded to this IRL on August 4, 2020 (“IRL Response”).
66. On August 26, 2020, representatives of EPA Region III conducted an inspection of the facilities in Jessup, MD and Mt. Airy, MD. On September 3, 2020, representatives of EPA Region III conducted an inspection of the facility in York Haven, PA. (Collectively, these inspections will be referred to herein as the “Inspections.” The EPA representatives who conducted the Inspections and reviewed the IRL Response will be referred to herein as the “Inspection Team.”)
67. During the Inspections and review of the IRL Response, the Inspection Team reviewed Respondents’ General Permits, Stormwater Pollution Prevention Plans (“SWPPPs”) and Preparedness, Prevention and Contingency (“PPC”) Plans, sampling procedures, operations, and the current site conditions.
68. The Inspection Team prepared inspection reports for each of the three facilities that EPA inspected, with findings from the Inspections (“the Inspection Reports”), which include observations regarding Respondents’ compliance with the requirements of the applicable General Permit.
69. EPA sent a copy of the Inspection Reports to the Respondents on or about October 23, 2020. Respondents responded to the Inspection Reports by letters dated February 15, 2021.
70. Based on the Inspections and review of the ILR Response, EPA has identified the following violations of the General Permits, and Section 301 of the CWA, 33 U.S.C. § 1311, described in the Paragraphs below.

**Count 1  
Failure to Comply with Permit Requirements Concerning  
the Storm Water Pollution Prevention Plan**

71. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.

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<sup>1</sup> This Consent Agreement does not include penalties for violations at the Jessup, MD Facility because MDE assessed a penalty for similar CWA violations at this Facility.

72. The Maryland General Permit requires Stormwater Pollution Prevention Plans (“SWPPPs”) to document the selection, design, and installation of measures for the control of stormwater discharges.
73. The Maryland General Permit, Part III.C.2.c., requires a SWPPP to include a site map which shows in the relevant subpart of Part III.C.2.c.:

Site map. Provide a map showing:

ii.) the location and extent of significant structures and impervious surfaces

...

iv.) directions of stormwater flow (use arrows);

v.) locations of all existing structural control measures or [best management practices (“BMPs”)];

...

vii.) locations of all stormwater conveyances including ditches, pipes, and swales...

74. The Maryland General Permit, Part III.C.4., provides:

Description of Control Measures to Meet Technology- and Water Quality-Based Effluent Limits

You must document the location and type of control measures you have installed and implemented at your site to achieve the non-numeric effluent limits in Part III.B.1.b and, where applicable, in Appendix D Sector-Specific Requirements for Industrial Activity, and the water quality-based effluent limits in Part III.B.2, and describe how you are addressing the control measure selection and design considerations, if applicable, in Part III.A.1.a. This documentation must describe how the control measures at your site address both the pollutant sources identified in Part III.C.3 and any stormwater run-on that commingles with any discharges covered under this permit.

75. Respondent Potomac German Auto, Inc.’s site map in the SWPPP for the LKQ Pick Your Part /Mount Airy Facility had the following deficiencies or discrepancies:
- a. The site map does not include the location of the oil-water separator (“OWS”) or the structure’s discharge point.
- b. An area on the southern perimeter of the site showed evidence of runoff flowing behind the constructed berm on the south side of the bioretention and sand filter structures. It appeared runoff from this area would be discharged through Outfall 001. The site map does not show this flow pattern.

- c. The SWPPP does not reflect the 2019 installation of bioretention and sand filter BMPs on the south side of the site. The BMPs are included on the map, but not discussed in the narrative portion of the document.
  - d. At the time of the inspection, some drainage patterns onsite appeared to be different than those reflected on the map. The map does not include an apparent point of discharge at the southeastern corner of the site.
  - e. At the time of the inspection, the site appeared to be graded in such a way that drainage from the OWS, the fluid drainage area, the vehicle compactor area, and the storage area for pre-processed vehicles would not flow to Outfall 001.
76. Respondent Potomac German Auto, Inc. failed to prepare and include in its SWPPP for the Mt. Airy Facility an adequate site map and accurate description of control measures, in violations of the Maryland General Permit, Part III.,C.2 and C.4., and Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342.
77. In failing to comply with the Sections 301 and 402 of the CWA and the Maryland General Permit, Part III.,C.2 and C.4., Respondent Potomac German Auto, Inc. is subject to the assessment of penalties under Section 309 of the CWA, 33 U.S.C. § 1319.

## **Count 2**

### **Failure to Comply with Permit Requirements Concerning the Preparedness, Prevention and Contingency Plan**

78. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
79. The Pennsylvania General Permit requires Preparedness, Prevention and Contingency (“PPC”) Plans to document the selection, design, and installation of measures for the control of stormwater discharges. Pennsylvania General Permit, Condition in Part C, IV.B, Preparedness, Prevention and Contingency Plan, requires:

The Permittee shall review and if necessary, update the PPC Plan on an annual basis, at a minimum, and when one or more of the following occur:

1. Applicable DEP or federal regulations are revised, or this General Permit is revised.
2. The PPC Plan fails in an emergency.
3. The facility’s design, industrial process, operation, maintenance, or other circumstances change in a manner that materially increases the potential for fires, explosions or releases of toxic or hazardous

constituents; or which changes the response necessary in an emergency.

4. The list of emergency coordinators or equipment changes.
5. When notified in writing by DEP.

The Permittee shall maintain all PPC Plan updates on-site, make the updates available to DEP upon request, and document the updates in Annual Reports.

80. At the time of the inspection, Respondent LKQ Northeast, Inc.'s PPC Plan for the York Haven, PA facility contained the version of the Pennsylvania General Permit that had expired on December 4, 2015. The Pennsylvania General Permit had been reissued September 30, 2016. The PPC Plan was required to be updated on an annual basis when the General Permit was reissued to include the current General Permit.
81. Respondent LKQ Northeast, Inc. failed to update the PPC Plan for the York Haven facility to contain the current Pennsylvania General Permit, in violation of the Pennsylvania General Permit Part C, Section IV.B., and Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342.
82. In failing to comply with the Sections 301 and 402 of the CWA and the Pennsylvania General Permit Part C, Section IV.B., Respondent LKQ Northeast, Inc. is subject to the assessment of penalties under Section 309 of the CWA, 33 U.S.C. § 1319.

### **Counts 3-6**

#### **Failure to Implement Adequate Control Measures or Take Corrective Action**

83. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
84. The Maryland General Permit and Pennsylvania General Permit each contain requirements for implementing adequate control measures or taking corrective actions.
85. ***Mt. Airy (Good Housekeeping)***: the Maryland General Permit, Part III.B.1.b.ii, requires:

Good Housekeeping. You must keep clean all exposed areas that are potential sources of pollutants, using such measures as sweeping at regular intervals, keeping materials orderly and labeled, and storing materials in appropriate containers. A good practice for ensuring housekeeping activities are performed at regular intervals would be keeping a schedule for routine grounds maintenance and cleanup.

86. At the time of the Inspection, there were auto parts and broken glass littered throughout the Mt. Airy Facility. A particularly concentrated pile of parts and debris was observed by the Inspection Team on the eastern perimeter of the site, near the pre-processed vehicle storage area.
87. Respondent Potomac German Auto, Inc. failed to keep clean all exposed areas at the Mt. Airy Facility that are potential sources of pollutants, and keep materials orderly and labeled and storing materials in appropriate containers, in violation of the Maryland General Permit, Part III.B.1.b.ii., and Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342.
88. In failing to comply with the Sections 301 and 402 of the CWA and the Maryland General Permit, Part III.B.1.b.ii., Respondent Potomac German Auto, Inc. is subject to the assessment of penalties under Section 309 of the CWA, 33 U.S.C. § 1319.
89. **York Haven (BMPs)**: the Pennsylvania General Permit, Part C.II.B.8. provides:
- II. BMPs Applicable to all Permittees
    - ...
    - B. Pollution Prevention and Exposure Minimization. The Permittee shall minimize the exposure of manufacturing, processing, and material storage areas (including loading and unloading, storage, disposal, cleaning, maintenance, and fueling operations) to rain, snow, snowmelt, and runoff in order to minimize pollutant discharges by either locating industrial materials and activities inside or protecting them with storm resistant coverings wherever feasible. The Permittee shall implement and maintain the following measures, at a minimum:
      - ...
      - 8. Keep all dumpster lids closed when not in use. For dumpsters and roll off boxes that do not have lids, ensure that discharges have a control (e.g., secondary containment, treatment). This General Permit does not authorize dry weather discharges from dumpsters or roll off boxes.
90. At the time of the Inspection, there were open and uncovered dumpsters at the York Haven, PA Facility containing metal vehicle parts, located upgradient of a stormwater catch basin in the northeast portion of the facility. These dumpsters did not have fixed lids.
91. Respondent LKQ Northeast, Inc. failed to minimize the exposure of manufacturing, processing, and material storage areas at the York Haven, PA Facility to rain, snow, snowmelt, and runoff in order to minimize pollutant discharges, in violation of the

Pennsylvania General Permit, Part C.II.B.8., and Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342.

92. In failing to comply with the Sections 301 and 402 of the CWA and the Pennsylvania General Permit, Part C.II.B.8., Respondent LKQ Northeast, Inc. is subject to the assessment of penalties under Section 309 of the CWA, 33 U.S.C. § 1319.
93. ***York Haven (Spill Prevention and Responses)***: the Pennsylvania General Permit, Part C.II.E.2., requires:

II. BMPs Applicable to all Permittees

E. Spill Prevention and Responses.

The Permittee shall minimize the potential for leaks, spills and other releases that may be exposed to stormwater and develop a plan consistent with Part C IV for effective responses to such releases. The Permittee shall conduct the following spill prevention and response measures, at a minimum:

...

2. Implement procedures for material storage and handling, including the use of secondary containment and barriers between material storage and traffic areas, or a similarly effective means designed to prevent the discharge of pollutants from these areas.

94. At the time of the Inspection of the York Haven, PA Facility, Respondent LKQ Northeast, Inc. failed to provide adequate secondary containment for the tank used for draining gasoline during vehicle processing, while this tank was stored outside, in violation of 40 C.F.R. § 112.6(a)(3)(ii).
95. Three 120-gallon tanks that were storing oil at the York Haven, PA Facility did not have double walls nor secondary containment.
96. Respondent LKQ Northeast, Inc. failed to minimize the potential for leaks, spills and other releases that may be exposed to stormwater at the York Haven, PA Facility, by failing to provide secondary containment or barriers to spills, in violation of the Pennsylvania General Permit, Part C.II.E.2., and Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342.
97. In failing to comply with the Sections 301 and 402 of the CWA and the Pennsylvania General Permit, Part C.II.E.2., Respondent LKQ Northeast, Inc. is subject to the assessment of penalties under Section 309 of the CWA, 33 U.S.C. § 1319.

98. **York Haven (Operation & Maintenance):** Pennsylvania General Permit, Part B.I.D. requires:

D. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances), including BMPs that are installed or used by the permittee to achieve compliance with the terms and conditions of this General Permit. Proper operation and maintenance includes, but is not limited to, adequate laboratory controls such as appropriate quality assurance procedures. The permittee shall properly operate and maintain backup or auxiliary facilities or similar systems installed by the permittee, as necessary to achieve compliance with the terms and conditions of this General Permit.

99. At the time of the Inspection of the York Haven, PA Facility, there was a buildup of wood debris from fallen trees obstructing the stormwater drainage channel on the north side of the facility. The channel diverts stormwater runoff around the north side of the facility, and into the stormwater pond.
100. Respondent LKQ Northeast, Inc. failed to maintain stormwater conveyances that direct flow to the pond (a BMP) at the facility, in violation of the Pennsylvania General Permit, Part B.I.D., and Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342.
101. In failing to comply with the Sections 301 and 402 of the CWA and the Pennsylvania General Permit, Part B.I.D., Respondent LKQ Northeast, Inc. is subject to the assessment of penalties under Section 309 of the CWA, 33 U.S.C. § 1319.

**Counts 7-8: Failure to Provide Adequate Erosion and Sediment Controls**

102. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
103. **Mt. Airy, MD:** the Maryland General Permit, Part III.B.1.b.v., provides:

Erosion and Sediment Controls. You must stabilize exposed areas and contain runoff using structural and/or non-structural control measures to minimize onsite erosion and sedimentation, and the resulting discharge of pollutants. Among other actions you must take to meet this limit, you must place flow velocity dissipation devices at discharge locations and within outfall channels where necessary to reduce erosion and/or settle out pollutants. In selecting, designing, installing, and implementing appropriate control measures, you are encouraged to consult with the Department's Soil Erosion &

Sediment Control resources (found at), EPA's internet-based resources relating to BMPs for erosion and sedimentation, including the sector-specific Industrial Stormwater Fact Sheet Series, ([www.epa.gov/npdes/stormwater/msgp](http://www.epa.gov/npdes/stormwater/msgp)), National Menu of Stormwater BMPs ([www.epa.gov/npdes/stormwater/menuofbmps](http://www.epa.gov/npdes/stormwater/menuofbmps)), and National Management Measures to Control Nonpoint Source Pollution from Urban Areas ([www.epa.gov/owow/nps/urbanmm/index.html](http://www.epa.gov/owow/nps/urbanmm/index.html)).

104. At the time of the Inspection of the Mt. Airy, MD Facility, there was erosion on the edge of the channel that conveys runoff from the northern and western portions of the site to Outfall 001. Erosion was also observed on the north bank of the bioretention BMP by the Inspection Team. The BMP receives sheet flow runoff from northern and central areas of the site. Additionally, the Facility's 2019 comprehensive site evaluation identified sediment overtopping the silt fence at the edge of the channel.
105. Respondent Potomac German Auto, Inc. failed to minimize onsite erosion and sedimentation at the Mt. Airy facility, in violation of the Maryland General Permit, Part III.B.1.b.v., and Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342.
106. In failing to comply with the Sections 301 and 402 of the CWA and the Maryland General Permit, Part III.B.1.b.v., Respondent Potomac German Auto, Inc. is subject to the assessment of penalties under Section 309 of the CWA, 33 U.S.C. § 1319.
107. **York Haven, PA:** the Pennsylvania General Permit, Section C.II.D, provides:

D. Erosion and Sediment Controls.

1. The Permittee shall minimize erosion and pollutant discharges by stabilizing exposed soils and placing flow velocity dissipation devices at discharge locations to minimize channel and stream bank erosion and scour in the immediate vicinity of stormwater outfalls.
  2. The Permittee shall conduct all earth disturbance activities and, when applicable, shall maintain all post-construction stormwater management (PCSM) BMPs in accordance with 25 Pa. Code Chapter 102.
108. At the time of the Inspection of the York Haven, PA Facility, there was gravel that migrated over a containment barrier, located approximately 30 feet upgradient of the stormwater pond forebay observed by the Inspection Team.
  109. At the time of the Inspection of the York Haven, PA facility, there was also erosion under the filter socks placed on the northwest perimeter of the north lot, upgradient of the



stormwater pond observed by the Inspection Team. Additionally, mud and sediment buildup was present on the filter socks in this area observed by the Inspection Team.

110. Respondent LKQ Northeast, Inc. failed to minimize erosion and pollutant discharges by providing erosion and sediment controls, in violation of the Pennsylvania General Permit, Section C.II.D., and Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342.
111. In failing to comply with the Sections 301 and 402 of the CWA and the Pennsylvania General Permit, Section C.II.D., Respondent LKQ Northeast, Inc. is subject to the assessment of penalties under Section 309 of the CWA, 33 U.S.C. § 1319.

### **Counts 9-13**

#### **Failure to Adequately Conduct or Report Compliance - Quarterly Visual Inspection**

112. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
113. The Maryland General Permit, Part V.A. provides:

#### **A. Site Inspections and Evaluations**

You must conduct the following inspections or evaluations at your facility in accordance with the monitoring procedures outlined in Part V.C. You must keep a copy of the documentation from all inspections and evaluations onsite with your SWPPP per Part III.C.8.g.

#### **3. Quarterly Visual Inspections**

You are required to begin visual inspections in the first full quarter after you have been notified that you are covered by this permit. For example, if you obtain permit coverage in June, then your first monitoring quarter is July 1 - September 30 of that year. Once each quarter, you must collect a stormwater sample from each outfall (except in adverse weather conditions, substantially identical outfalls, or inactive and unstaffed sites as noted below) and assess the sample visually. Samples may be taken during any precipitation event (except as noted in Areas Subject to Snow below) where there is a measurable discharge and must be sampled within the first 30 minutes of the storm event. In the case of snowmelt, samples must be taken during a period with a measurable discharge from your site. These samples are not required to be collected consistent with 40 CFR 136 procedures but should be collected in such a manner that the samples are representative of the stormwater discharge.

a. The Quarterly Visual Monitoring Form found in Appendix B of this permit must be completed for each sample.

...

d. *Substantially identical outfalls*: If your facility has two or more outfalls that you believe discharge substantially identical effluents, as documented in Part III.C.5.b, you may conduct quarterly visual assessments of the discharge at just one of the outfalls and report that the results also apply to the substantially identical outfall(s) provided that you perform visual assessments on a rotating basis of each substantially identical outfall throughout the period of your coverage under this permit. If stormwater contamination is identified through visual assessment performed at a substantially identical outfall, you must assess and modify your control measures as appropriate for each outfall represented by the monitored outfall.

114. Information provided in LKQ's response to the June 9, 2020 IRL indicates that five facilities were missing a total of 14 Quarterly Visual Inspections:
- a. ***Edgewood, MD***: 1 missing Quarterly Visual Inspection (2Q 2020)
  - b. ***Frederick, MD***: 3 missing Quarterly Visual Inspections (2Q 2017, 4Q 2017, 4Q 2019)
  - c. ***Erdman, MD***: 1 missing Quarterly Visual Inspection (2Q 2018)
  - d. ***Hawkins Point, MD***: 5 missing Quarterly Visual Inspections (1Q 2017, 2Q 2017, 3Q 2017, 4Q 2017, 2Q 2018)
  - e. ***Easton, MD***: 4 missing Quarterly Visual Inspections (1Q 2017, 2Q2017, 3Q2017, 2Q2018)
115. Respondents Potomac German Auto, Inc. and LKQ Northeast, Inc. failed to conduct a total of 14 Quarterly Visual Inspections, in violation of the Maryland General Permit, Part V.A.3., and Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342.
116. In failing to comply with the Sections 301 and 402 of the CWA and the Maryland General Permit, Part V.A.3., Respondents Potomac German Auto, Inc. and LKQ Northeast, Inc. are subject to the assessment of penalties under Section 309 of the CWA, 33 U.S.C. § 1319.

#### **Counts 14-18**

#### **Failure to Conduct or Adequately Document Routine Inspections**

117. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.

118. The Maryland General Permit, Part V.A. provides:

A. Site Inspections and Evaluations

You must conduct the following inspections or evaluations at your facility in accordance with the monitoring procedures outlined in Part V.C. You must keep a copy of the documentation from all inspections and evaluations onsite with your SWPPP per Part III.C.8.g.

1. Routine Facility Inspection

At least once per quarter, you must conduct a site assessment that will review the effectiveness of the SWPPP. At least once each calendar year, the routine facility inspection must be conducted during a period when a stormwater discharge is happening. The facility inspections must be documented with a checklist or other summary signed in accordance with Part II.C.2 of this permit, by qualified personnel, with at least one member of your stormwater pollution prevention team participating. The checklist must include a certification that the site is in compliance with the SWPPP and this permit, or a record of the deficiencies and necessary follow up actions. Refer to Part IV.C Corrective Action Deadlines and Part IV.D. Corrective Action Report for appropriate time frames.

119. Respondents failed to conduct or adequately document a total of 22 Routine Facility Inspections at the following facilities, detailed as follows:

a. Frederick, MD Facility was missing 4 Routine Facility Inspection Reports:

1Q 2017, 2Q 2017 (2 quarterly reports).

At least one wet weather quarterly report per year is missing for the following years: 2018 & 2019

4 total reports missing

b. Mt. Airy, MD Facility was missing 3 Routine Facility Inspection Reports:

At least one wet weather quarterly report per year is missing for the following years: 2017, 2018 & 2019

3 total reports missing

c. Edgewood, MD Facility was missing 1 Routine Facility Inspection Reports:

At least one wet weather quarterly report per year is missing for the following years: 2019  
1 report missing

- d. Erdman, MD Facility was missing 5 Routine Facility Inspection Reports:  
  
2 quarterly reports in 2017 (dates of missing reports unknown due to illegible writing)  
At least one wet weather quarterly report per year is missing for the following years: 2017, 2018 & 2019  
5 total reports missing
- e. Hawkins Point, MD Facility was missing 5 Routine Facility Inspection Reports:  
  
1Q 2017, 2Q 2017, 3Q 2017, 4Q 2017, 4Q 2018 (5 quarterly reports)  
5 reports missing
- f. Easton, MD Facility was missing 4 Routine Facility Inspection Reports:  
  
1Q 2017, 2Q 2017, 3Q 2017 (3 quarterly reports).  
At least one wet weather quarterly report per year is missing for the following years: 2017  
4 total reports missing

- 120. Respondents LKQ Northeast, Inc. and Potomac German Auto, Inc. failed to conduct a total of 22 Routine Facility Inspections, in violation of the Maryland General Permit, Part V.A.1., and Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342.
- 121. In failing to comply with the Sections 301 and 402 of the CWA and the Maryland General Permit, Part V.A.1., Respondents Potomac German Auto, Inc. and LKQ Northeast, Inc. are subject to the assessment of penalties under Section 309 of the CWA, 33 U.S.C. § 1319.

### **CIVIL PENALTY**

- 122. In settlement of EPA's claims for civil penalties for the violations alleged in this Consent Agreement, Respondents consent to the assessment of a civil penalty in the amount of **ONE HUNDRED THIRTY THOUSAND DOLLARS (\$130,000.00)**, which Respondents shall be liable to pay in accordance with the terms set forth below.
- 123. The civil penalty is based upon EPA's consideration of a number of factors, including the penalty criteria ("statutory factors") set forth in Section 309(g) of the CWA, 33 U.S.C. § 1319(g), including, the following: "the nature, circumstances, extent and gravity of the violation, or violations, and, with respect to the violator, ability to pay, any prior history of such violations, the degree of culpability, economic benefit or savings (if any)

resulting from the violation, and such other matters as justice may require,” and the appropriate Adjustment of Civil Monetary Penalties for Inflation, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA’s civil penalty policies to account for inflation.

124. Payment of the civil penalty amount, and any associated interest, administrative fees, and late payment penalties owed, shall be made by either cashier’s check, certified check or electronic wire transfer, in the following manner:

- a. All payments by Respondents shall include reference to each Respondent’s name and address, and the Docket Number of this action, *i.e.*, **CWA-03-2022-0017**;
- b. All checks shall be made payable to the “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  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

- d. For additional information concerning other acceptable methods of payment of the civil penalty amount see:

<https://www.epa.gov/financial/makepayment>

- e. A copy of Respondents’ check or other documentation of payment of the penalty using the method selected by Respondents for payment shall be sent simultaneously by email to:

Natalie L. Katz  
Sr. Assistant Regional Counsel  
[katz.natalie@epa.gov](mailto:katz.natalie@epa.gov)

and

U.S. EPA Region III Regional Hearing Clerk  
[R3\\_Hearing\\_Clerk@epa.gov](mailto:R3_Hearing_Clerk@epa.gov).

125. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondents’ failure to make timely payment of the penalty as

specified herein shall result in the assessment of late payment charges including interest, penalties and/or administrative costs of handling delinquent debts.

126. Payment of the civil penalty is due and payable immediately upon the effective date of this Consent Agreement and Final Order. Receipt by Respondents or Respondents' legal counsel of such copy of the fully executed Consent Agreement and Final Order, with a date stamp indicating the date on which the Consent Agreement and Final Order was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed as of the effective date of this Consent Agreement and Final Order by Respondents in accordance with 40 C.F.R. § 13.9(a).
127. INTEREST: Interest on the civil penalty assessed in this Consent Agreement and Final Order will begin to accrue on the effective date of this Consent Agreement and Final Order. However, EPA will not seek to recover interest on any amount of the civil penalties that is paid within thirty (30) calendar days after the effective date of this Consent Agreement and Final Order. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R § 13.11(a).
128. ADMINISTRATIVE COSTS: The costs of the EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives – Case Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
129. LATE PAYMENT PENALTY: A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
130. Respondents agree not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.

#### **GENERAL SETTLEMENT CONDITIONS**

131. By signing this Consent Agreement, Respondents acknowledge that this Consent Agreement and Final Order will be available to the public and represents that, to the best of each Respondent's knowledge and belief, this Consent Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondents.
132. Respondents certify that any information or representation they have supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete

and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondents to the EPA regarding matters relevant to this Consent Agreement and Final Order, including information about Respondents' ability to pay a penalty, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondents and their officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

### **CERTIFICATION OF COMPLIANCE**

133. Respondents certify to EPA, upon personal investigation and to the best of their knowledge and belief, that they currently are in compliance with the Administrative Order on Consent between Respondents and EPA, Docket No. CWA-03-2022-0017, which addresses the violations alleged herein.

### **OTHER APPLICABLE LAWS**

134. Nothing in this Consent Agreement and Final Order shall relieve Respondents of their obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This Consent Agreement and Final Order does not constitute a waiver, suspension or modification of the requirements of the Clean Water Act, or any regulations promulgated thereunder.

### **RESERVATION OF RIGHTS**

135. This Consent Agreement and Final Order resolves only EPA's claims for civil penalties for the specific violation[s] alleged against Respondents in this Consent Agreement and Final Order. 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. 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, 40 C.F.R. § 22.18(c). EPA reserves any rights and remedies available to it under the Clean Water Act, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this Consent Agreement and Final Order after its effective date.

**EXECUTION /PARTIES BOUND**

136. This Consent Agreement and Final Order shall apply to and be binding upon the EPA, the Respondents and the officers, directors, employees, contractors, successors, agents and assigns of Respondents. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondents is acknowledging that he or she is fully authorized by the Respondents to execute this Consent Agreement and to legally bind Respondents to the terms and conditions of this Consent Agreement and Final Order.

**EFFECTIVE DATE**

137. Pursuant to 40 C.F.R. § 22.45(b), this Consent Agreement and Final Order shall be issued only after a 40-day public notice and comment period is concluded. This Consent Agreement and Final Order will become final and effective thirty (30) days after having been signed by the Regional Administrator or his delegate, the Regional Judicial Officer, and filed with the Regional Hearing Clerk.

**ENTIRE AGREEMENT**

138. This Consent Agreement and Final Order constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the 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 Consent Agreement and Final Order.



For Respondent:

Date: 10/6/21

For LKQ Northeast, Inc.

Walter Hanley  
Walter Hanley, Vice President

For Respondent:

Date: 10/6/21

For Potomac German Auto, Inc.

Walter Hanley  
Walter Hanley, Vice President

For the Complainant:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement & Compliance Assurance Division of the United States Environmental Protection Agency, Region III, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

Date: \_\_\_\_\_

By: \_\_\_\_\_

Karen Melvin, Director  
Enforcement & Compliance Assurance Division  
U.S. EPA – Region III  
Complainant

Attorney for Complainant:

Date: \_\_\_\_\_

By: \_\_\_\_\_

Natalie L. Katz  
Sr. Assistant Regional Counsel  
U.S. EPA – Region III

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

<b>In the Matter of:</b>	:
	: U.S. EPA Docket No. CWA-03-2022-0017
<b>POTOMAC GERMAN AUTO, INC. and</b>	:
<b>LKQ NORTHEAST, INC.,</b>	: <b>Proceeding under Section 309(g) of the</b>
<b>c/o LKQ CORPORATION</b>	: <b>Clean Water Act, 33 U.S.C. § 1319(g),</b>
<b>500 WEST MADISON STREET,</b>	: <b>to Assess Class II Penalty</b>
<b>SUITE 2800</b>	:
<b>CHICAGO, ILLINOIS 60661</b>	:
	:
<b>Respondents.</b>	:
	:
<b>MT. AIRY, MD</b>	:
<b>EDGEWOOD, MD</b>	:
<b>FREDERICK, MD</b>	:
<b>ERDMAN, MD</b>	:
<b>HAWKINS POINT, MD</b>	:
<b>EASTON, MD</b>	:
<b>YORK HAVEN, PA,</b>	:
	:
<b>Facilities.</b>	:
	:

**FINAL ORDER**

Complainant, the Director of the Enforcement & Compliance Assurance Division, U.S. Environmental Protection Agency, Region III, and Respondents, Potomac German Auto, Inc. and LKQ Northeast, Inc., 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 upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of the statutory factors set forth in Section 309(d) and (g) of the Clean Water Act (“CWA”), 33 U.S.C. § 1319(d) and (g).

**NOW, THEREFORE, PURSUANT TO** Section 309 of the Clean Water Act, 33 U.S.C. § 1319, and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondents pay a civil penalty in the amount of **ONE HUNDRED THIRTY**

**THOUSAND DOLLARS (\$130,000)**, in accordance with the payment provisions set forth in the Consent Agreement and in 40 C.F.R. § 22.31(c), and comply with the terms and conditions of the Consent Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Consent Agreement and does not waive, extinguish or otherwise affect Respondents' obligation to comply with all applicable provisions of Clean Water Act and the regulations promulgated thereunder.

The effective date of the attached Consent Agreement and this Final Order is thirty (30) days after this Final Order is filed with the Regional Hearing Clerk and served on the Respondent, pursuant to 33 U.S.C. § 1319(g)(5).

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Joseph J. Lisa  
Regional Judicial and Presiding Officer  
U.S. EPA Region III