

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for William Chin 9/29/15  
Name of Case Attorney Date

in the ORC (RAA) at 918-1113  
Office & Mail Code Phone number

Case Docket Number RCRA-01-2015-0009

Site-specific Superfund (SF) Acct. Number \_\_\_\_\_

This is an original debt  This is a modification

Name and address of Person and/or Company/Municipality making the payment:

Con-way Freight, Inc.  
15 Southern Industrial Road  
Cranston, RI 02921

Total Dollar Amount of Receivable \$ 42,900 Due Date: 10/29/15

SEP due? Yes \_\_\_\_\_ No  Date Due \_\_\_\_\_

Installment Method (if applicable)

INSTALLMENTS OF:

- 1<sup>st</sup> \$ \_\_\_\_\_ on \_\_\_\_\_
- 2<sup>nd</sup> \$ \_\_\_\_\_ on \_\_\_\_\_
- 3<sup>rd</sup> \$ \_\_\_\_\_ on \_\_\_\_\_
- 4<sup>th</sup> \$ \_\_\_\_\_ on \_\_\_\_\_
- 5<sup>th</sup> \$ \_\_\_\_\_ on \_\_\_\_\_

For RHC Tracking Purposes:

Copy of Check Received by RHC \_\_\_\_\_ Notice Sent to Finance \_\_\_\_\_

**TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:**

IFMS Accounts Receivable Control Number \_\_\_\_\_

If you have any questions call: \_\_\_\_\_ Phone Number  
in the Financial Management Office



# U.S. Environmental Protection Agency

Region 1  
5 Post Office Square – Suite 100  
Boston, MA 02109-3912

September 29, 2015

## VIA HAND DELIVERY

Wanda I. Santiago  
Regional Hearing Clerk  
U.S. EPA, Region 1  
5 Post Office Square, Suite 100  
Mail Code: ORA18-1  
Boston, MA 02109-3912

RECEIVED

SEP 29 2015

EPA ORC *WS*  
Office of Regional Hearing Clerk

Re: In the Matter of: Con-way Freight, Inc.  
Docket No. RCRA-01-2015-0069

Dear Ms. Santiago,

Enclosed for filing, please find a Consent Agreement and Final Order (“CAFO”) that will simultaneously initiate and settle the matter referenced above.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink that reads "William D. Chin".

William D. Chin  
Enforcement Counsel  
U.S. EPA, Region 1

Enclosure

cc: Samuel B. Boxerman, Sidley Austin LLP

IN THE MATTER OF: *Con-way Freight, Inc.*, Docket No. RCRA-01-2015-0069

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing Consent Agreement and Final Order has been sent to the following persons on the date noted below:

Original and one copy,  
hand-delivered:

Ms. Wanda I. Santiago  
Regional Hearing Clerk  
U.S. EPA, Region 1  
5 Post Office Square, Suite 100  
Mail Code: ORA18-1  
Boston, MA 02109-3912

Copy, by Certified Mail,  
Return Receipt Requested

Samuel B. Boxerman, Esq.  
Sidley Austin LLP  
1501 K Street, N.W.  
Washington, D.C. 20005

Dated: 9/29/15



William D. Chin  
Enforcement Counsel  
U.S. EPA, Region 1  
5 Post Office Square, Suite 100  
Mail Code: OES04-4  
Boston, MA 02109-3912  
Tel (617) 918-1728

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1**

In the Matter of:	)	
	)	Docket No.
Con-way Freight, Inc.	)	RCRA-01-2015-0069
15 Southern Industrial Road	)	
Cranston, RI 02921	)	<b>CONSENT AGREEMENT AND</b>
	)	<b>FINAL ORDER</b>
	)	
Respondent.	)	
	)	

**CONSENT AGREEMENT**

**Introduction**

1. The United States Environmental Protection Agency ("EPA"), Region 1 ("EPA Region 1" or "Complainant") alleges that Con-way Freight, Inc. (Con-way" or "Respondent") has violated Section 3002 of the Solid Waste Disposal Act, commonly referred to as the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6922, and regulations implementing RCRA at a freight service facility that is owned and operated by Respondent and located at 15 Southern Industrial Road in Cranston, Rhode Island.

2. Complainant and Respondent agree that settlement of this matter is in the public interest, and that entry of this Consent Agreement and Final Order ("CAFO") without further litigation is the most appropriate means of resolving this matter. Pursuant to 40 C.F.R. § 22.13(b) of EPA's "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.



Complainant and Respondent agree to simultaneously commence and settle this action by the issuance of this CAFO.

3. Therefore, before any hearing, without adjudication of any issue of fact or law, and upon consent and agreement of Complainant and Respondent, it is hereby ordered as follows:

**Statutory and Regulatory Authority**

4. Complainant takes this action under the authority of Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g), to obtain compliance with RCRA and the hazardous waste regulations promulgated to implement RCRA and to seek civil penalties for violations of RCRA and its implementing regulations.

5. Pursuant to Section 3008(a) (2) of RCRA, 42 U.S.C. § 6928(a) (2), notice of this action has been given to the State of Rhode Island and Providence Plantations.

6. RCRA was enacted on October 21, 1976, and amended thereafter by, among other things, the Hazardous and Solid Waste Amendments of 1984 (“HSWA”). Subchapter III of RCRA establishes a comprehensive federal regulatory program for the management of hazardous waste. See 42 U.S.C. §§ 6921-6939c. Pursuant to Subchapter III of RCRA, EPA has promulgated regulations that set forth standards and requirements applicable to generators and transporters of hazardous waste, as well as standards and requirements that are applicable to owners and operators of facilities that treat, store, dispose of hazardous waste. These regulations are codified at 40 C.F.R. Parts 260-271.

7. Pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, EPA may authorize a state to administer the RCRA hazardous waste program in lieu of the federal program when EPA deems the state program to be substantially equivalent to the federal program.

8. On January 30, 1986, EPA granted the State of Rhode Island final authorization to administer its hazardous waste management program in lieu of the federal hazardous waste management program. See 51 Fed. Reg. 3780 (January 30, 1986). Updates to the Rhode Island hazardous waste management program have been authorized by EPA several times since then, most recently on July 26, 2010, effective September 24, 2010.<sup>1</sup> The authority for the Rhode Island hazardous waste program is set out at Chapter 23-19.1 of the Rhode Island General Laws, with implementing regulations promulgated as the Rhode Island Consolidated Rules and Regulations for Hazardous Waste Management, Rules 1.00 through 17.00 (the “RI Rules”).

9. Because EPA has not yet authorized the State of Rhode Island to implement some HSWA portions of the federal RCRA program, there is a dual State/Federal RCRA program in Rhode Island. State law governs the base hazardous waste program, but EPA has exclusive jurisdiction to implement and enforce the HSWA of 1984 requirements for which the State of Rhode Island is not authorized.

10. Pursuant to Sections 3006(g) and 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6926(g) and 6928(a) and (g), EPA may enforce the federally approved State of Rhode Island hazardous waste program, as well as the federal regulations promulgated pursuant to HSWA, by issuing an order assessing a civil penalty for any past or current violation of RCRA and requiring immediate compliance. Section 3006 of RCRA, as amended, provides that, among other things, authorized state hazardous waste programs are carried out under Subtitle C of RCRA. Therefore, a violation of any requirement of law under an

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<sup>1</sup> The most recent revision of the RI Rules was issued by the state on January 17, 2014 (not yet authorized by EPA). The RI Rules issued by the state in June 2010 (and authorized by EPA on July 26, 2010) are referenced herein since this version was in effect at the time of the violations alleged in this CAFO.

authorized state hazardous waste program is a violation of a requirement of Subchapter C of RCRA.

11. Section 3008(a) of RCRA provides that upon finding that any person has violated or is violating any requirement of Subchapter C of RCRA, including violations in an authorized state, EPA may issue an order requiring compliance immediately or within a specified time and assessing a civil penalty for any past or current violation. Sections 3008(a) and (g) of RCRA provide that any person who violates any order or requirement of Subchapter C of RCRA shall be liable to the United States for a civil penalty in an amount of up to \$25,000 per day for each violation. Pursuant to the Debt Collection Improvement Act of 1996 (“DCIA”), 31 U.S.C. § 3701 et seq., as well as 40 C.F.R. Part 19, the inflation-adjusted civil penalty for a violation of Subchapter III of RCRA is up to \$37,500 per day per violation for violations that occurred on or after January 13, 2009.

### **Findings**

12. Respondent is a freight transportation company that operates a network of 295 freight service centers to provide freight shipping services throughout North America. Respondent has a facility located at 15 Southern Industrial Road, Cranston, Rhode Island (the “Facility”). The Facility is a 62-door, single building freight facility located on 4.5 acres of building space.

13. At all times relevant to this CAFO, Respondent is a “person,” as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), 40 C.F.R. § 260.10, and RI Rule 3.00.

14. At all times relevant to this CAFO, Respondent’s Facility is a “facility,” as defined at 40 C.F.R. § 260.10 and RI Rule 3.00.

15. At all times relevant to this CAFO, Respondent is the “owner” and/or “operator” of the Facility, as defined at 40 C.F.R. § 260.10.

16. At all times relevant to this CAFO, Respondent generates various types of hazardous wastes when products containing hazardous materials are damaged during shipment and no longer considered product. Products damaged during shipment are stored in a single storage area at the Facility called the “Overshort & Damaged Storage” (“OS&D”) Area.

17. At all times relevant to this CAFO, Respondent generates “solid waste,” as defined in Section 1004(27) of RCRA, 42 U.S.C. § 6903(27), and 40 C.F.R. §§ 260.10 and 261.2.

18. At all times relevant to this CAFO, Respondent generates “waste,” as defined in RI Rule 3.00.

19. At all times relevant to this CAFO, at least some of the wastes Respondent has generated are “hazardous wastes,” as defined in Section 1004(5) of RCRA, 42 U.S.C. § 6903(5), 40 C.F.R. §§ 260.10 and 261.3, and RI Rule 3.00.

20. At all times relevant to this CAFO, Respondent is a “generator,” as defined in 40 C.F.R. § 260.10 and RI Rule 3.00.

21. Accordingly, as a generator of hazardous waste, Respondent is subject to RCRA, the federal regulations promulgated at 40 C.F.R. Parts 260-271 and 279, and the RI Rules.

22. On August 11, 2011, authorized representatives of EPA Region 1 conducted a RCRA compliance evaluation inspection of the Facility (the “Inspection”), pursuant to Section 3007 of RCRA, 42 U.S.C. § 6927.

23. Based on the Inspection, and other information obtained by Complainant during and after the Inspection, Complainant has identified the following alleged violations at the Facility:

Failure to conduct and document weekly inspections of hazardous waste storage areas

24. Pursuant to RI Rule 5.2.A, a generator may store hazardous waste onsite for 90 days or less without a permit as long as the hazardous waste is managed in accordance with, among other requirements, the requirements of 40 C.F.R. §§ 262.34 and 265.15(d).

25. Pursuant to 40 C.F.R. § 262.34(a) (1) (i), a generator must comply with, among other requirements, 40 C.F.R. Part 265, Subpart I.

26. Pursuant to 40 C.F.R. § 265.174, an owner or operator must conduct at least weekly inspections of areas where hazardous waste containers are stored.

27. Pursuant to 40 C.F.R. § 265.15(d), an owner or operator must: record inspections in an inspection log or summary; keep these records for at least three years from the inspection date; and ensure that the records include the date and time of the inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs or other remedial actions.

28. At the time of the Inspection, the EPA inspectors observed at least six containers in the OS&D Area that were either marked or identified by facility staff as “hazardous waste.”

29. At the time of the Inspection, Respondent was not conducting or documenting inspections of the OS&D Area from at least June 2010 to August 2011.

30. Accordingly, by failing to conduct weekly inspections and to keep records of the inspections from at least June 2010 to August 2011, Complainant alleges that Respondent violated RI Rule 5.2.A, which incorporates by reference 40 C.F.R. §§ 265.15(d) and 262.34(a) (1) (i), which in turn incorporates by reference 40 C.F.R. § 265.174.

Failure to maintain a hazardous waste contingency plan

31. Pursuant to RI Rule 5.2.A, a generator may store hazardous waste onsite for 90 days or less without a permit as long as the hazardous waste is managed in accordance with, among other requirements, the requirements of 40 C.F.R. § 262.34.

32. Pursuant to 40 C.F.R. § 262.34(a) (4), a generator must comply with, among other requirements, 40 C.F.R. Part 265, Subpart D.

33. Pursuant to 40 C.F.R. § 262.51(a), each owner or operator must have a contingency plan for his facility. The contingency plan must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water. Pursuant to 40 C.F.R. § 262.52, the contingency plan should, among other things, include: evacuation routes and evacuation information, locations and capabilities of emergency and decontamination equipment; identification of the types and locations of hazardous wastes stored at the facility; information regarding whom employees should call and what actions should be taken in the event of an emergency.

34. At the time of the EPA Inspection, Respondent did not have a hazardous waste contingency plan for the Facility.

35. Accordingly, by failing to have a contingency plan for the Facility, Complainant alleges that Respondent violated Respondent violated RI Rule 5.2.A, which incorporates by reference 40 C.F.R. § 262.34(a) (4), which in turn incorporates by reference 40 C.F.R. Part 265, Subpart D.

Failure to provide initial and annual hazardous waste training

36. Pursuant to RI Rule 5.2.A, a generator may store hazardous waste onsite for 90 days or less without a permit as long as the hazardous waste is managed in accordance with, among other requirements, the requirements of 40 C.F.R. § 262.34.

37. Pursuant to 40 C.F.R. § 262.34(a)(4), a generator must comply with, among other requirements, 40 C.F.R. § 265.16.

38. Pursuant to 40 C.F.R. § 265.16(a)(1), employees who manage hazardous wastes must complete a hazardous waste management training program that teaches them to perform their duties in a way that ensures the facility's compliance with RCRA.

39. Pursuant to 40 C.F.R. § 265.16(a)(2), the training program must be directed by a person trained in hazardous waste management procedures and must include instruction which teaches facility personnel hazardous waste management procedures relevant to the positions in which they are employed (i.e., "initial RCRA training").

40. Pursuant to 40 C.F.R. § 265.16(b), employees who manage hazardous waste must successfully complete the program within six months after the date of their employment, and they must not work in unsupervised positions until they have completed the training requirements.

41. Pursuant to 40 C.F.R. § 265.16(c), employees who manage hazardous wastes must also take part in an annual review of the training (i.e., "annual RCRA training").

42. At the time of the EPA Inspection, at least two employees managed hazardous wastes in the OS&D Area at the Facility.

43. At the time of the Inspection, Respondent had not provided initial or annual hazardous waste management training in 2010 and 2011 to the two employees who managed hazardous wastes in the OS&D Area at the Facility.

44. Accordingly, by failing to provide initial or annual hazardous waste management training in 2010 and 2011 to the two employees who managed hazardous wastes in the OS&D Area at the Facility, Complainant alleges that Respondent violated RI Rule 5.2.A, which incorporates by reference 40 C.F.R. § 262.34(a)(4), which in turn, incorporates by reference 40 C.F.R. §§ 265.16(a)-(c).

Failure to maintain a hazardous waste training program

45. Pursuant to RI Rule 5.2.A, a generator may store hazardous waste onsite for 90 days or less without a permit as long as the hazardous waste is managed in accordance with, among other requirements, the requirements of 40 C.F.R. § 262.34.

46. Pursuant to 40 C.F.R. § 262.34(a) (4), a generator must comply with, among other requirements, 40 C.F.R. § 265.16.

47. Pursuant to 40 C.F.R. § 265.16(d), an owner or operator must maintain certain documents and records for hazardous waste training, including: (1) the job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job; (2) a written job description for each such position that must include the requisite skill, education, or other qualifications of facility personnel assigned to each position; (3) a written description of the type and amount of introductory and continuing training that will be to each person who manages hazardous wastes; and (4)

records that document that the required training or job experience has been given to and completed by facility personnel.

48. At the time of the Inspection, Respondent had not maintained the required documents and records for hazardous waste management training at the Facility.

49. Accordingly, by failing to maintain the required documents and records for hazardous waste management training at the Facility, Complainant alleges that Respondent violated RI Rule 5.2.A, which incorporates by reference 40 C.F.R. § 262.34(a)(4), which in turn, incorporates by reference 40 C.F.R. § 265.16(d).

Failure to properly label or mark hazardous waste containers

50. Pursuant to RI Rule 5.4.A, a generator must label or mark each container, excluding satellite accumulation (as defined in RI Rule 3.0), with, among other things: the words "Hazardous Waste;" the name and address of the generating facility; the USDOT shipping name and generic names of the principal hazardous waste components; and the EPA or Rhode Island waste code.

51. At the time of the Inspection, the OS&D Area at the Facility was not a satellite accumulation area, as defined in RI Rule 3.0.

52. At the time of the Inspection, the EPA inspectors observed following hazardous waste containers in the OS&D Area:

- One approximately 30-gallon container with cone #15 on its top was marked as "hazardous waste, insecticide, 8/2/11," but was not marked with an EPA or RIDEM hazardous waste code;
- One approximately 55-gallon container with cone number #16 on its top was marked as "hazardous waste, mixmate, 5/3/11," but was not marked with an EPA or RIDEM hazardous waste code; and

- One approximately 30-gallon container with cone #18 on its top was marked as “hazardous waste, paint and related material, 6/22/11,” but was not marked with an EPA or RIDEM hazardous waste code.

53. Accordingly, by failing to properly label or mark the three hazardous waste containers in the OS&D Area described above in Paragraph 52, Complainant alleges that Respondent has violated RI Rule 5.4.A. *See also* 40 C.F.R. § 262.34(c) (1) (ii).

Failure to mark hazardous waste containers with accumulation dates

54. Pursuant to RI Rule 5.2.A, a generator may store hazardous waste onsite for 90 days or less without a permit as long as the hazardous waste is managed in accordance with, among other requirements, the requirements of 40 C.F.R. § 262.34.

55. Pursuant to 40 C.F.R. § 262.34(a) (2), each hazardous waste container must be marked with the date that waste accumulation begins.

56. At the time of the Inspection, the EPA inspectors observed following hazardous waste container in the OS&D Area:

- One approximately 30-gallon container with cone #11 on its top that was marked as ‘hazardous waste liquid, speedy dry with trash,’ but was not dated.

57. Accordingly, by failing to mark the hazardous waste container in the OS&D Area described above in Paragraph 56 with an accumulation start date, Complainant alleges that Respondent violated RI Rule 5.2.A, which incorporates by reference 40 C.F.R. § 262.34(a)(2).

Failure to take all precautions to prevent accidental ignition of ignitable wastes

58. Pursuant to RI Rule 5.2.A, a generator may store hazardous waste onsite for 90 days or less without a permit as long as the hazardous waste is managed in accordance with, among other requirements, the requirements of 40 C.F.R. § 262.34.

59. Pursuant to 40 C.F.R. § 262.34(a) (1)(i), a generator must comply with, among other requirements, the provisions of 40 C.F.R. Part 265, Subpart I.

60. Forty C.F.R. § 265.176 incorporates by reference 40 C.F.R. § 265.17(a) to include additional requirements for ignitable or reactive wastes

61. Pursuant to 40 C.F.R. § 265.17(a), an owner or operator must take certain precautions to prevent accidental ignition or reaction of ignitable or reactive waste including the need for “No Smoking” signs to be conspicuously placed whenever there is a hazard from ignitable or reactive waste.

62. At the time of the Inspection, at least some of the hazardous wastes being stored by Respondent in the OS&D Area were ignitable wastes (e.g., the 30-gallon container with cone #18 on its top that contained “hazardous waste, paint and related material”).

63. At the time of the Inspection, Respondent did not have any “No Smoking” signs conspicuously placed in the OS&D Area.

64. Accordingly, by failing to conspicuously place ‘No Smoking’ signs in the OS&D Area, Complainant alleges that Respondent violated RI Rule 5.2.A, which incorporates by reference 40 C.F.R. § 262.34(a)(1)(i), which in turn, incorporates by reference 40 C.F.R. § 265.176, which in turn, incorporates by reference 40 C.F.R. § 265.17(a),

#### **Terms of Settlement**

65. The provisions of this CAFO shall apply to and be binding on EPA and Respondent, its officers, directors, successors and assigns.

66. Respondent states that it has corrected the alleged violations cited in Paragraphs 12 through 64 of this CAFO.

67. For purposes of this CAFO, Respondent agrees that EPA has jurisdiction over the subject matter alleged in this CAFO, and hereby waives any defenses it might have as to jurisdiction and venue.

68. Respondent acknowledges that it has been informed of its right to request a hearing in this proceeding, and hereby waives its right to a judicial or administrative hearing or appeal on any issue of law or fact set forth in this CAFO.

69. Respondent hereby waives its right to appeal the Final Order accompanying this CAFO.

70. Without admitting or denying the factual findings contained in this CAFO and without admitting or denying liability as to any claim alleged in this CAFO, Respondent consents to the terms and issuance of this CAFO, and consents for the purposes of settlement to the payment of the civil penalty as set forth in this CAFO.

71. After consideration of the nature of the violations alleged in this CAFO, and other relevant factors, Complainant has determined that it is fair and proper that Respondent pays a civil penalty in the amount of \$42,900.00 in settlement of this matter.

Penalty Payment

72. Respondent shall pay the civil penalty set forth in this CAFO by no later than thirty (30) days after the effective date of this CAFO.

73. This CAFO shall be effective on the date it is filed with the Regional Hearing Clerk.

74. Respondent shall make the civil penalty payment by cashier's check, certified check, by electronic funds transfer (EFT), or by Automated Clearing House (ACH) (also known as REX or remittance express). If paying by check, the check shall be payable to: "Treasurer, United States of America," and Respondent shall note the name ("In the Matter of: Con-way Freight, Inc.") and docket number ("RCRA-01-2015-0069") of this matter on the check. If Respondent sends the check by the U.S. Postal Service, the payment shall be sent to:

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

If Respondent sends the check by non-U.S. Postal express mail delivery, the payment shall be sent to:

U.S. Bank  
Government Lockbox 979077  
U.S. EPA Fines & Penalties  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, Missouri 63101  
Tel: (314) 425-1818

If paying by EFT, Respondent shall transfer the payment to:

Federal Reserve Bank of New York  
ABA: 021030004  
Account Number: 68010727  
SWIFT address: FRNYUS33  
33 Liberty Street  
New York, New York 10045  
Field Tag 4200 of the Fedwire message should read:  
"D 68010727 Environmental Protection Agency"

If paying by ACH, Respondent shall remit payment to:

US Treasury REX / Cashlink ACH Receiver  
ABA: 051036706  
Account Number: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 – checking  
Physical location of US Treasury facility:  
5700 Rivertech Court  
Riverdale, Maryland 20737  
REX (Remittance Express): 1-866-234-5681

Respondent shall also submit a copy of the payment to:

Wanda I. Santiago  
Regional Hearing Clerk  
U.S. EPA, Region 1  
5 Post Office Square - Suite 100  
Mail Code: ORA18-1  
Boston, MA 02109-3912

and

William D. Chin  
Enforcement Counsel  
U.S. EPA, Region 1  
5 Post Office Square - Suite 100  
Mail Code: OES04-4  
Boston, MA 02109-3912

75. Failure by Respondent to pay the penalty assessed by this CAFO in full shall subject the Respondent to a civil action to collect the assessed penalty, plus interest at current prevailing rates from the effective date of this CAFO. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim. Interest will therefore begin to accrue on a civil or stipulated penalty if it is not paid by the last date required. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b)(2). A charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorneys' fees.

In addition, a non-payment penalty charge of six (6) percent per year compounded annually will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. Any such non-payment penalty charge on the debt will accrue from the date the penalty payment becomes due and is not paid. See 31 C.F.R. § 901.9(d).

Additional Provisions

76. All penalties, interest, and charges payable pursuant to this CAFO shall represent civil penalties assessed by EPA and shall not be deductible for purposes of federal taxes.

77. Compliance with this CAFO, including payment of any penalties, shall not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by EPA, and does not waive, suspend, or modify the responsibility of the Respondent to comply with such laws and regulations.

78. Compliance with this CAFO constitutes a full and complete settlement by EPA of all claims for civil liability and penalties, pursuant to Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g), for all violations of RCRA specifically alleged herein. Nothing in this CAFO shall be construed as prohibiting, altering or, in any way, limiting the ability of EPA to seek any other remedies or sanctions available for Respondent's violation of this CAFO or, with respect to matters other than the allegations and violations alleged in this CAFO, for Respondent's violation of any other applicable provision of law. Furthermore, nothing in this CAFO shall prevent EPA from taking any necessary action to address conditions at Respondent's Facility which may present an imminent and substantial endangerment to public health or the environment nor shall this

CAFO be construed to, nor is it intended to operate in any way to, resolve any criminal liability or any other civil liability of Respondent. Respondent reserves all of its rights, privileges and defenses to process and appeal with respect to any claims other than those alleged in this CAFO.

79. Except as provided above in Paragraph 75, each party shall bear its own costs and fees in this proceeding, and specifically waives any right to recover such costs, disbursements or fees from the other Party pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504, or other applicable law.

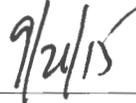
80. Each undersigned representative of the parties to this CAFO certifies that she or he is fully authorized by the party represented to enter into the terms and conditions of this CAFO and to execute and legally bind that party to it.

THE UNDERSIGNED PARTY enters into this CAFO for In the Matter of: Con-way Freight, Inc. Docket No. RCRA-01-2015-0069

For Con-way Freight, Inc.:

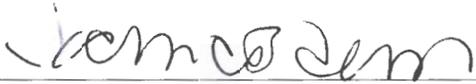


\_\_\_\_\_  
Tom W. Clark  
Senior Vice President of Operations  
Con-way Freight, Inc.

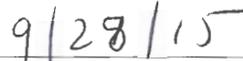


\_\_\_\_\_  
Date

For U.S. EPA, Region I:



\_\_\_\_\_  
Joanna Jerison  
Legal Enforcement Manager  
Office of Environmental Stewardship  
U.S. EPA, Region 1

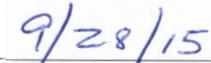


\_\_\_\_\_  
Date

**FINAL ORDER**

81. The foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. Respondent is ordered to comply with the terms of the above Consent Agreement, effective on the date it is filed with the Regional Hearing Clerk.

  
\_\_\_\_\_  
LeAnn Jensen  
Acting Regional Judicial Officer  
U.S. EPA, Region 1

  
\_\_\_\_\_  
Date