

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

TO BE FILLED OUT BY ORIGINATING OFFICE:

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

This form was originated by: Bruce Byrd 9/18/09
Name of Contact person Date
in the Office of Regional Counsel (3RC20) at 215-814-2475
Office Phone number

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

Administrative Order/Consent Agreement FMD COLLECTS PAYMENT

SF Jud. Order/Consent Decree. FMD COLLECTS

This is an original debt This is a modification

Name of Person and/or Company/Municipality making the payment: Pennsylvania Department of Transportation

The Total Dollar Amount of Receivable \$ 4,000.00

The Case Docket Number CWA-3-2001-0009 (If in installments, attach schedule of amounts and respective due dates)

The Site-Specific Superfund Acct. Number _____

The Designated Regional/HQ Program Office Office of Environmental Programs, Environmental Assessment + Innovation Division

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. U.S. Environmental Protection Agency
Cincinnati Finance Center
26 W. Martin Luther King Drive (MS-002)
Cincinnati, OH 45268 | 2. Originating Office (ORC) |
| | 3. Designated Program Office |

Attn: Lori Weidner

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 | 3. Regional Counsel |

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

FILED
SEP 30 PM 2:09

In The Matter of:

Pennsylvania Department of
Transportation
Forum Place
555 Walnut Street
Harrisburg, PA 17101

Proceeding to Assess Class I
Administrative Penalty Under
Section 309(g) of the Clean
Water Act

Docket No. CWA-3-2001-0009

**CONSENT AGREEMENT
AND FINAL ORDER**

Respondent

I. STATUTORY AUTHORITY

This Consent Agreement and Final Order ("CAFO") is issued pursuant to Section 309(g) of the Clean Water Act, 33 U.S.C. § 1319(g), in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties (Consolidated Rules), 40 C.F.R. Part 22.

II. STIPULATIONS AND FINDINGS

1. The Director, Environmental Assessment and Innovation Division, United States Environmental Protection Agency ("EPA"), Region III initiated this proceeding for assessment of a Class I Administrative Penalty pursuant to Section 309(g)(2)(A) of the Clean Water Act, 33 U.S.C. § 1319(g)(2)(A), by issuing an Administrative Complaint to Pennsylvania Department of Transportation ("Respondent") on or about December 28, 2000.
2. Respondent filed an Answer to the Complaint on or about January 25, 2001.
3. Respondent consents to the issuance of this CAFO, and agrees to undertake all actions required by its terms and conditions.
4. Respondent neither admits nor denies the factual allegations made by EPA in the

Complaint.

5. For the purposes of this proceeding Respondent admits the jurisdictional allegations of the Complaint.
6. Respondent agrees not to contest EPA's jurisdiction to issue and enforce this CAFO in any action by EPA to enforce the terms of the CAFO.
7. Respondent hereby expressly waives its rights to a hearing under Section 309(g)(2)(A) of the Clean Water Act ("CWA"), 33 U.S.C. § 1319(g)(2)(A), and waives its right to appeal this Final Order under Section 309(g)(8)(A) of the CWA, 33 U.S.C. § 1319(g)(8)(A).
8. Each party to this agreement will pay its own costs and attorney's fees.
9. The parties agree that settlement of this matter without further litigation is in the public interest and that entry of a CAFO is the most appropriate means of resolving this matter.

III. FINDINGS OF FACT

10. This Consent Agreement incorporates by reference the allegations contained in Section II, Paragraphs 2 through 12 of the Complaint, and adopts them as the Findings of Fact, herein.

IV. CONCLUSIONS OF LAW

11. EPA concludes that Respondent has violated Section 301(a) of the CWA, 33 U.S.C. § 1311(a), and shall be liable to the United States for a civil penalty in accordance with Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

V. PENALTY

12. Based upon the foregoing and having taken into account the nature, circumstances, extent and gravity of the alleged violation(s), Respondent's prior history of compliance, degree of culpability, economic benefit or savings resulting from the violations, ability to pay, and such other matters as justice may require, and under the authority of Section 309(g) of the CWA, 33 U.S.C. § 1319(g), EPA HEREBY ORDERS AND Respondent HEREBY CONSENTS to pay a civil penalty of four thousand dollars (\$4,000) in settlement of the civil violations alleged in EPA Docket No. CWA-3-2001-0009.
13. Respondent shall pay the civil penalty of \$4,000 (the "Civil Penalty") within sixty (60) days of the effective date of this CAFO pursuant to 40 C.F.R. § 22.31(c), by cashier's or certified check,

Pay to: United States Treasury

Payment by Respondent shall reference Respondent's name and address, and the title and EPA Docket Number of the CAFO. A copy of Respondent's check or a copy of Respondent's electronic fund transfer shall be sent simultaneously to Lydia Guy, Regional Hearing Clerk, and the case attorney.

By Regular US Postal Service Mail:

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

Contact: Eric Volck (513-487-2105)

By Private Commercial Overnight Delivery:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines and Penalties
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

Contact: 314-418-1028

Payment by Electronic Funds Transfer to:

Wire Transfers
Federal Reserve Bank of New York
ABA = 021030004
Account No. = 68010727
SWIFT Address = FRNYUS33
33 Liberty Street
New York, NY 10045

(Field Tag 4200 of the wire transfer message should read:
"D 68010727 Environmental Protection Agency")

Automated Clearing House (ACH) Transfers for receiving U.S. currency (also known as REX or Remittance Express):

U.S. Treasury REX / Cashlink ACH Receiver
ABA = 051036706
Account No. 310006, Environmental Protection Agency
CTX Format Transaction Code 22 - checking

Physical location of the U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737

Contact for ACH: Jessie White 301 887-6548, or REX 1-866-234-5681

ON LINE PAYMENTS:

There is now an On Line Payment Option, available through the Dept. of Treasury. This payment option can be accessed from the information below:

WWW.PAY.GOV

Enter sfo 1.1 in the search field

Open form and complete required field payable to the "Treasurer, United States of America."

14. Respondent shall submit notice of payment, along with a copy of the check or other applicable documentation of payment to:

Regional Hearing Clerk (3RC00)
U.S. EPA Region III
1650 Arch Street
Philadelphia, PA 19103

and

Bruce E. Byrd (3RC20)
Sr. Assistant Regional Counsel
U.S. EPA Region III
1650 Arch Street
Philadelphia, PA 19103

15. The provisions of this CAFO shall be binding upon Respondent, its successors and assigns.
16. This CAFO does not constitute a waiver, suspension or modification of the requirements of the CWA, 33 U.S.C. § 1251 et seq., or any regulations promulgated thereunder.

17. 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.
18. The following notice concerns interest and late penalty charges that will accrue in the event that any portion of the civil penalty is not paid as directed:

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, Respondent's failure to make timely payment or to comply with the conditions in this CAFO shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.

Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a copy of this CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. 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).

The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash 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 such subsequent thirty (30) days the penalty remains unpaid.

A penalty charge of six percent per year will be assessed monthly on any portion of the civil penalty which 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).

19. This Consent Agreement and the accompanying Final Order resolve only the civil claims for the specific violations alleged in the Complaint issued in the above-captioned action. 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 the Clean Water Act, 33 U.S.C. § 301 et seq., 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.

20. EPA reserves the right to institute a new action should Respondent fail to comply with the terms of this CAFO. This right shall be in addition to all other rights and causes of action, civil or criminal, the EPA may have under law or equity in such event.
21. The penalty specified in Paragraph 12, above, shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal taxes.
22. All of the terms and conditions of this CAFO together comprise one agreement, and each of the terms and conditions is in consideration of all of the other terms and conditions. In the event that this CAFO or one or more of its terms and conditions is held invalid, or is not executed by all of the signatories in identical form, or is not approved in such identical form by the Regional Administrator or his designee, then the entire CAFO shall be null and void.
23. By entering into this CAFO, Respondent does not admit any liability for the civil claims alleged herein.
24. This Consent Agreement and the accompanying Final Order resolve the violations in the Complaint issued in this matter, and therefore supersede the Accelerated Decision on Liability in this matter issued by the Regional Judicial Officer.
25. This Consent Agreement and the accompanying Final Order shall apply to and be binding upon EPA, Respondent, and the officers, directors, successors, and assigns of Respondent. By his signature below the person signing this Consent Agreement on behalf of Respondent is acknowledging that he is fully authorized by Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and the attached Final Order.

VI. EFFECTIVE DATE

26. This CAFO shall become final and effective, thirty (30) days after it is lodged with the Regional Hearing Clerk pursuant to pursuant to Section 309(g)(5) of the Act, 33 U.S.C. § 1319(g)(5).

FOR RESPONDENT PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION:

Scott Christ

Title: Dep Sec.

DATE 8/27/09

APPROVED AS TO LEGALITY
AND FORM

BY [Signature]
for Chief Counsel

DATE

KMG
8/19/09

CERTIFIED FUNDS AVAILABLE UNDER

SAP NO. 3900035512

SAP COST CENTER 7841210000

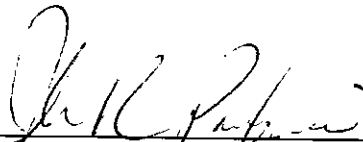
GL ACCOUNT 6414050

AMOUNT \$4,000.00

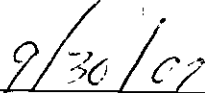
BY [Signature]
for Comptroller

9/15/09
DATE

FOR EPA REGION III:



John R. Pomponio, Director
Environmental Assessment and
Innovation Division



DATE

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

In The Matter of:

Pennsylvania Department of
Transportation
Forum Place
555 Walnut Street
Harrisburg, PA 17101

Respondent

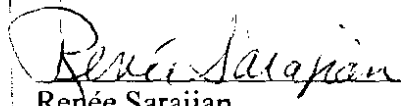
Proceeding to Assess Class I
Administrative Penalty Under
Section 309(g) of the Clean
Water Act

Docket No. CWA-3-2001-0009

FINAL ORDER

NOW THEREFORE, PURSUANT TO Section 309(g) of the Clean Water Act ("CWA"), 33 U.S.C. § 1319(g), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties (Consolidated Rules), 40 C.F.R. Part 22, and based upon the representations made in the Consent Agreement, having determined that the penalty agreed to in the Consent Agreement is based upon a consideration of the factors set forth in Section 309(g)(3) of the CWA, IT IS HEREBY ORDERED that Respondent pay a penalty of Four Thousand Dollars (\$4,000) in accordance with Section V. of this document.

Dated: 9/30/09


Renée Sarajian
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that on this date I caused to be sent the original of the attached Consent

Agreement and Final Order to the following parties:

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

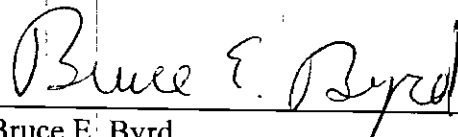
with copies to:

Presiding Officer Renée Sarajian (3RC00)
U.S. Environmental Protection Agency
1650 Arch Street
Philadelphia, PA 19103

Kenda Jo M. Gardner
Assistant Counsel in Charge
Environmental Section
Office of Chief Counsel
Post Office Box 8212
Harrisburg, PA 17105-8212

Date: _____

9/30/09



Bruce E. Byrd
Sr. Assistant Regional Counsel