

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

In the Matter of:)	
)	
Fleet Management Administration)	
Department of Public Works	)	U.S. EPA Docket Number
Government of the District of Columbia	)	RCRA-03-2008-0422
1725 15 th Street, N.E.)	
Washington, D.C. 20002)	
)	
RESPONDENT,)	
	)	Proceeding Under Section 9006 of the
	)	Resource Conservation and Recovery Act,
DPW - Laurel Facility	)	as amended, 42 U.S.C. Section 6991e
8300 Riverton Court)	
Laurel, MD 20724)	
)	
FACILITY 1,)	
	)	CONSENT AGREEMENT
DPW - Idaho Avenue Facility)	
3320 Idaho Avenue, N.W.)	
Washington, D.C. 20016)	
)	
FACILITY 2.)	
)	

RECEIVED
 2008 SEP 30 PM 4:28
 REGION III
 EPA REGIONAL OFFICE
 PHILA, PA

CONSENT AGREEMENT

This Consent Agreement (“CA”) is entered into by the Director, Land and Chemicals Division, U.S. Environmental Protection Agency, Region III (“Complainant”) and the Fleet Management Administration of the Department of Public Works of the Government of the District of Columbia (“Respondent”), pursuant to Section 9006 of the Resource Conservation and Recovery Act (“RCRA”), as amended, 42 U.S.C. § 6991e, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules”), 40 C.F.R. Part 22, including, specifically 40 C.F.R. §§ 22.13(b) and .18(b)(2) and (3).

This CA and the Final Order (collectively “CAFO”), resolve violations of RCRA Subtitle I, 42 U.S.C. §§ 6991-6991m, the State of Maryland’s federally authorized underground storage tank program, and the District of Columbia’s federally authorized underground storage tank (“UST”) program by Respondent in connection with its underground storage tanks at

Respondent's facilities located at 8300 Riverton Court in Laurel, Maryland ("Facility 1"), and 3320 Idaho Avenue, N.W. in Washington, D.C. ("Facility 2").

Effective July 30, 1992, pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991c, and 40 C.F.R. Part 281, Subpart A, the State of Maryland was granted final authorization to administer a state UST management program *in lieu* of the Federal UST management program established under Subtitle I of RCRA, 42 U.S.C. §§ 6991-6991m. The provisions of the Maryland UST program, through this final authorization, are enforceable by EPA pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e. Maryland's authorized underground storage tank program regulations are administered by the Maryland Department of the Environment ("MDE"), and are set forth in the Code of Maryland Regulations, Title 26, Subtitle 10, and will be cited as "COMAR" followed by the applicable section of the regulations.

In addition, effective May, 4, 1998, pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991c, and 40 C.F.R. Part 281, Subpart A, the District of Columbia was granted final authorization to administer a state UST management program *in lieu* of the Federal UST management program established under Subtitle I of RCRA, 42 U.S.C. §§ 6991-6991m. The provisions of the District of Columbia UST management program, through this final authorization, are enforceable by EPA pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e. The District of Columbia's authorized UST program regulations are set forth in the District of Columbia Municipal Regulations, Title 20, Chapters 55 *et seq.*, and will be cited hereinafter as 20 DCMR §§ 5500 *et seq.*

GENERAL PROVISIONS

1. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
2. Respondent neither admits nor denies the specific factual allegations and conclusions of law set forth in this CAFO, except as provided in Paragraph 1, above.
3. Respondent agrees not to contest EPA's jurisdiction with respect to the execution of this Consent Agreement ("CA"), the issuance of the attached Final Order ("FO"), or the enforcement thereof, and Respondent admits the jurisdictional allegations set forth in this CAFO.
4. For the purposes of this proceeding only, Respondent hereby expressly waives its right to a hearing on any issue of law or fact set forth in this CA and any right to appeal the accompanying FO.
5. Respondent consents to the issuance of this CAFO, and agrees to comply with its terms and conditions.

6. Respondent shall bear its own costs and attorney's fees.
7. The person signing this CA on behalf of the Respondent certifies by his signature herein that Respondent, as of the date of this CA, is in compliance with the provisions of RCRA, Subtitle I, 42 U.S.C. §§ 6991-6991m, the State of Maryland's federally authorized underground storage tank program set forth in COMAR § 26.10. *et seq.*, and the District of Columbia's federally authorized underground storage tank program set forth at 20 DCMR §§ 5500 *et seq.*, at the Facilities referenced herein.
8. The provisions of this CAFO shall be binding upon Respondent, and its officers, directors, employees, successors and assigns.
9. This CAFO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit, nor does this CAFO constitute a waiver, suspension or modification of the requirements of RCRA Subtitle I, 42 U.S.C. §§ 6991-6991m, or any regulations promulgated thereunder.
10. Complainant shall have the right to institute further actions to recover appropriate relief if Complainant obtains evidence that the information provided and/or representations made by Respondent to EPA regarding matters at issue in the CA are false or, in any material respect, inaccurate. Respondent is aware that the submission of false or misleading information to the United States government may subject Respondent to separate civil and/or criminal liability.
11. Respondent agrees not to deduct for civil taxation purposes the civil penalty specified in this Consent Agreement and the attached Final Order.
12. EPA has given the State of Maryland prior notice of the issuance of this CAFO in accordance with Section 9006(a)(2) of RCRA, 42 U.S.C. § 6991e(a)(2).
13. EPA has given the District of Columbia prior notice of the issuance of this CAFO in accordance with Section 9006(a)(2) of RCRA, 42 U.S.C. § 6991e(a)(2).

FACTUAL ALLEGATIONS AND CONCLUSIONS OF LAW

The United States Environmental Protection Agency - Region III ("EPA" or the "Region") and EPA's Office of Administrative Law Judges have jurisdiction over this matter pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e, 40 C.F.R. Part 280 and 40 C.F.R. § 22.1(a)(4) and .4(c).

14. At all times relevant to this CAFO, Respondent has been the "owner" and/or "operator," as those terms are defined in Section 9001(3) and (4) of RCRA, 42 U.S.C. § 6991(3) and

(4), and COMAR § 26.10.02.04B(37) and (39), of the “underground storage tanks” (“USTs”) and “UST systems” as those terms are defined in Section 9001(10) of RCRA, 42 U.S.C. § 6991(10), and COMAR § 26.10.02.04B(64) and (66), located at 8300 Riverton Court, Laurel, Maryland (“Facility 1”). Respondent is a “person” as defined in Section 9001(5) of RCRA, 42 U.S.C. § 6991(5), and COMAR § 26.10.02.04B(40).

15. At all times relevant to this CAFO, Respondent has been the “owner” and/or “operator,” as those terms are defined in Section 9001(3) and (4) of RCRA, 42 U.S.C. § 6991(3) and (4), and 20 DCMR § 6899.1, of the “underground storage tanks” (“USTs”) and “UST systems” as those terms are defined in Section 9001(10) of RCRA, 42 U.S.C. § 6991(10), and 20 DCMR § 6899.1, located at 3320 Idaho Avenue, N.W., Washington, D.C. (“Facility 2”). Respondent is a “person” as defined in Section 9001(5) of RCRA, 42 U.S.C. § 6991(5), and 20 DCMR § 6899.1.
16. On September 28, 2007, Respondent entered into a Consent Agreement, Final Order and Settlement Conditions Document with EPA to perform a Multi-Facility Underground Storage Tank Compliance Audit, EPA Docket No. RCRA-03-2007-0045.
17. On June 3 and 5, 2008, Archer, Inc. performed audits of the Facilities on behalf of Respondent pursuant to the terms of the Settlement Conditions Document issued by the EPA to Respondent as indicated in Paragraph 16, above.
18. At the time of the June 3, 2008 audit, and at all times relevant to the applicable violations alleged herein, three (3) USTs were located at Facility 1 (a 4th UST located at Facility 1 is owned by another entity and was inaccessible during the audit) as described in the following subparagraphs:

Facility 1

- A. A twenty thousand (20,000) gallon double-walled fiberglass reinforced plastic tank that was installed in or about 2001, and that, at all times relevant hereto, routinely contained and was used to store unleaded gasoline, a “regulated substance” as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and COMAR § 26.10.02.04B(48) (hereinafter “UST No. 1”), and
- B. A five hundred and fifty (550) gallon single-walled fiberglass reinforced plastic tank that was installed in or about 1991, and that, at all times relevant hereto, routinely contained and was used to store diesel fuel, a “regulated substance” as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and COMAR § 26.10.02.04B(48) (hereinafter “UST No. 2”), and

- C. A one thousand (1,000) gallon single-walled fiberglass reinforced plastic tank that was installed in or about 1991, and that, at all times relevant hereto, routinely contained and was used to store diesel fuel, a “regulated substance” as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and COMAR § 26.10.02.04B(48) (hereinafter “UST No. 3”).

19. At the time of the June 5, 2008 audit, and at all times relevant to the applicable violations alleged herein, two (2) USTs were located at Facility 2 as described in the following subparagraphs:

Facility 2

- A. A ten thousand (10,000) gallon double-walled fiberglass reinforced plastic tank that was installed in or about 2000, and that, at all times relevant hereto, routinely contained and was used to store unleaded gasoline, a “regulated substance” as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6899.1 (hereinafter “UST No. 4”), and
 - B. A ten thousand (10,000 gallon) double-walled fiberglass reinforced plastic tank that was installed in or about 2000, and that, at all times relevant hereto, routinely contained and was used to store diesel fuel, a “regulated substance” as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6899.1 (hereinafter “UST No. 5”).
20. At all times relevant to the applicable violations alleged herein, USTs Nos. 1, 2, and 3 located at Facility 1 have been “petroleum UST systems” and “new tank systems” as these terms are defined in COMAR § 26.10.02.04B(43) and (31), respectively.
21. At all times relevant to the applicable violations alleged herein, USTs Nos. 4 and 5 located at Facility 2 have been “petroleum UST systems” and “new tank systems” as these terms are defined in 20 DCMR § 6899.1.
22. USTs Nos. 1, 2, and 3 located at Facility 1 are and were, at all times relevant to applicable violations alleged in this CAFO, used to store “regulated substance(s)” at Respondent’s Facility 1, as defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and COMAR § 26.10.02.04B(48), and have not been “empty” as that term is defined at COMAR § 26.10.10.01A.
23. USTs Nos. 4 and 5 located at Facility 2 are and were, at all times relevant to the applicable violations alleged in this CAFO, used to store “regulated substance(s)” at Respondent’s Facility, as defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and

20 DCMR § 6899.1, and have not been “empty” as that term is defined at 20 DCMR § 6100.7.

FACILITY 1 VIOLATIONS

(subject to MD regulations)

COUNT 1

(Failure to register USTs Nos. 1, 2, and 3 located at Facility 1)

24. The allegations of Paragraphs 1 through 23 of the CA are incorporated herein by reference.
25. COMAR 26.10.04.05B. (1) provides, in pertinent part, that owners and operators shall submit to the Maryland Department of the Environment (“MDE”) a notification of all UST systems described in COMAR 26.10.03.03
26. COMAR 26.10.03.03 provides, in pertinent part, that all owners and operators of new UST systems shall register the UST with MDE.
27. From September 28, 2004, until June 3, 2008, Respondent failed to register USTs Nos. 1, 2, and 3 with MDE.
28. Respondent’s failure to register USTs Nos. 1, 2, and 3 with MDE as alleged in Paragraph 27, above, constitutes violations by Respondent of COMAR 26.10.04.05B.

COUNT 2

(Failure to perform automatic line leak detector testing annually on piping for UST No. 1 located at Facility 1)

29. The allegations of Paragraphs 1 through 28 of the CA are incorporated herein by reference.
30. COMAR 26.10.05.02C(1) and (2) provide, in pertinent part, that underground piping that routinely contains and conveys regulated substances under pressure shall:
 - a. Be equipped with an automatic line leak detector conducted in accordance with COMAR 26.10.05.05B; and
 - b. Have an annual line tightness test conducted in accordance with COMAR 26.10.05.05C or have monthly monitoring conducted in accordance with COMAR 26.10.05.05D.
31. COMAR 26.10.05.05B provides, in pertinent part, that an annual test of the operation of the leak detector shall be conducted in accordance with the manufacturer’s requirements.

32. From September 28, 2004 until June 3, 2008, the piping for UST No. 1 located at Facility 1 was underground and routinely contained and conveyed regulated substances under pressure.
33. Respondent only conducted a test of the automatic line leak detector for the piping associated with UST No. 1 located at Facility 1 in 2008.
34. Respondent failed to perform an annual test of the automatic line leak detector for the underground piping for UST No. 1 located at Facility 1 in 2004, 2005, 2006, and 2007.
35. Respondent's acts and/or omissions as alleged in Paragraph 34, above, constitute violations by Respondent of COMAR 26.10.05.02C(1) and (2) and COMAR 26.10.05.05B.

COUNT 3

(Failure to conduct tank release detection for USTs Nos. 2 and 3 located at Facility 1)

36. The allegations of Paragraphs 1 through 35 of this CAFO are incorporated herein by reference.
37. Pursuant to COMAR 26.10.05.01A and C, owners and operators of new and existing UST systems must provide a method or combination of methods of release detection monitoring that meets the requirements described therein.
38. COMAR 26.10.05.02B provides, in pertinent part, that USTs shall be monitored at least every 30 days for releases using one of the methods listed in COMAR 26.10.05.04E-I, except that:
 - (1) UST systems that meet the performance standards in COMAR 26.10.03.01 (Performance Standards for New UST Systems) and .02 (Upgrading of Existing UST Systems), and the monthly inventory control requirements in COMAR 26.10.05.04B or C (Inventory Control or Manual Tank Gauging) shall use tank tightness testing, conducted in accordance with COMAR 26.10.05.04D (Tank Tightness Test), at least every 5 years until December 22, 1998, or until 10 years after the UST is installed or upgraded under COMAR 26.10.03.02B (Tank Upgrading Requirements); and
 - (2) UST systems that do not meet the performance standards in COMAR 26.10.03.01 (Performance Standards for New UST Systems) and .02 (Upgrading of Existing UST Systems), may use monthly inventory controls, conducted in accordance with COMAR 26.10.05.04B or C (Inventory Control or Manual Tank Gauging) and annual tank tightness

testing, conducted in accordance with COMAR 26.10.05.04D (Tank Tightness Test) until December 22, 1998, when the tank must be upgraded under COMAR 26.10.03.02 (Tank Upgrading Requirements) or permanently closed under COMAR 26.10.10.02; and

- (3) Tanks with a capacity of 550 gallons or less and not metered may use weekly tank gauging, conducted in accordance with COMAR 26.10.05.04C.
- 39. From 1991 until the date of this CAFO, the method of release detection selected by Respondent for USTs Nos. 2 and 3 located at Facility 1 has been automatic tank gauging in accordance with COMAR 26.10.05.04E.
 - 40. From September 28, 2004 until July 1, 2005, Respondent failed to perform automatic tank gauging for UST Nos. 2 and 3 located at Facility 1 in accordance with COMAR 26.10.05.04E.
 - 41. From September 28, 2004 until July 1, 2005, Respondent did not use any of the other release detection methods specified in COMAR 26.10.05.02B(1)-(3) and/or COMAR 26.10.05.04E-I on USTs Nos. 2 and 3 located at Facility 1.
 - 42. Respondent's acts and/or omissions as alleged in Paragraphs 40 and 41, above, constitute violations by Respondent of COMAR 26.10.05.

COUNT 4

(Failure to maintain release detection records for UST No. 1 located at Facility 1)

- 43. The allegations of Paragraphs 1 through 42 of this CAFO are incorporated herein by reference.
- 44. Pursuant to COMAR 26.10.05.06, owners and operators of new and existing UST systems shall maintain records in accordance with COMAR 26.10.04.05 demonstrating compliance with all applicable requirements of COMAR. These records shall include the following and shall be maintained as follows:
 - A. All written performance claims pertaining to any release detection system used, and the manner in which these claims have been justified or tested by the equipment manufacturer or installer, shall be maintained for 5 years from the date of installation;
 - B. The results of any sampling, testing, or monitoring shall be maintained for 1 year; and

C. Written documentation of all calibration, maintenance, and repair of release detection equipment permanently located on-site shall be maintained for at least 1 year after the service work is completed, and any schedules of required calibration and maintenance provided by the release detection equipment manufacturer shall be retained for 5 years from the date of installation.

45. COMAR 26.10.04.05C.(4) provides that owners and operators shall maintain information concerning recent compliance with release detection requirements pursuant to COMAR 26.10.05.06.
46. From at least September 28, 2004 until June 3, 2008, Respondent failed to maintain records of release detection monitoring for UST No. 1 located at Facility 1 in accordance with COMAR 26.10.05.06 and COMAR 26.10.04.05.
47. Respondent's acts and/or omissions as alleged in Paragraph 46, above, constitute violations by Respondent of COMAR 26.10.05.06 and COMAR 26.10.04.05.

FACILITY 2 VIOLATIONS
(subject to DC regulations)

COUNT 5

(Failure to perform automatic line leak detector testing annually
on piping for USTs Nos. 4 and 5 located at Facility 2)

48. The allegations of Paragraphs 1 through 47 of this CAFO are incorporated herein by reference.
49. 20 DCMR § 6004.2 provides that underground piping that routinely contains and conveys regulated substances under pressure shall be equipped with an automatic line leak detector, in accordance with 20 DCMR § 6013.2 of this chapter.
50. 20 DCMR § 6013.2 provides, in pertinent part, that the owner or operator shall conduct an annual test of the operation of the leak detector, in accordance with the manufacturer's requirements.
51. From September 28, 2004 until June 5, 2008, the piping for USTs Nos. 4 and 5 located at Facility 2 was underground and routinely contained and conveyed regulated substances under pressure.
52. Respondent only conducted a test of the automatic line leak detectors for the piping associated with USTs Nos. 4 and 5 located at Facility 2 in 2008.

53. Respondent failed to perform an annual test of the automatic line leak detectors for the underground piping associated with USTs Nos. 4 and 5 located at Facility 2 in 2004, 2005, 2006, and 2007.
54. Respondent's acts and/or omissions as alleged in Paragraph 53, above, constitute violations by Respondent of 20 DCMR § 6004.2 and 20 DCMR § 6013.2.

COUNT 6

(Failure to maintain records of tank release detection for USTs Nos. 4 and 5 located at Facility 2)

55. The allegations of Paragraphs 1 through 54 of this CAFO are incorporated herein by reference.
56. 20 DCMR § 5602.4(c) provides that each UST system owner or operator shall maintain information of recent compliance with release detection requirements pursuant to 20 DCMR § 6001.
57. 20 DCMR § 6001.3 and .4 provide that the results of any sampling, testing, or monitoring shall be maintained for 3 years, except the results for tank tightness testing conducted in accordance with 20 DCMR § 6007 shall be retained until the next test of the UST system is conducted.
58. From at least September 28, 2004 until June 5, 2008, Respondent failed to maintain records of release detection monitoring for USTs Nos. 4 and 5 located at Facility 2 in accordance with 20 DCMR § 5602.4(c) and 20 DCMR § 6001.3.
59. Respondent's acts and/or omissions as alleged in Paragraph 58, above, constitute violations by Respondent of 20 DCMR § 5602.4(c) and 20 DCMR § 6001.3.

COUNT 7

(Failure to report to the implementing agency a suspected release for UST No. 5 located at Facility 2)

60. The allegations of Paragraphs 1 through 59 of this CAFO are incorporated herein by reference.
61. 20 DCMR § 6202.1 provides, in pertinent part, that a "responsible party" (which as defined in 20 DCMR § 6899.1, includes the owner and operator of an UST), or any authorized agent of a responsible party, who knows or has reason to know of a release from an underground storage tank shall notify the Director of the District of Columbia

Department of the Environment (“DOE”) (formerly the Director of the Department of Consumer and Regulatory Affairs) of the release or suspected release within 24 hours.

62. 20 DCMR § 6202.2 provides, in pertinent part, that the notification required pursuant to 20 DCMR § 6202.1 may be provided orally or in writing, and shall consist of, if known, the name of the owner, operator and any other responsible party, as well as the location, date, time, volume, and substance of the release or suspected release.
63. 20 DCMR § 6202.3 provides that a responsible party shall not knowingly allow any release from an UST system to continue; a responsible party for an UST system shall notify the Director of DOE of any release or potential release within twenty-four hours, and shall follow the procedures in § 6203, if a release is suspected.
64. 20 DCMR § 6202.4(c) provides that a responsible party, including the owner and operator of an UST system, shall suspect a release if, among other things, monitoring results from a release detection method required under 20 DCMR §§ 6002 through 6015 indicate a release may have occurred from the UST system, unless the monitoring device is found to be defective and is immediately repaired, recalibrated, or replaced, and additional monitoring does not confirm the initial result.
65. In June 2005, the monthly release detection monitoring results for UST No. 5 located at Facility 2 indicated that a release may have occurred as described in Paragraph 64, above. Respondent did not find the monitoring device in issue to be defective and/or Respondent did not immediately repair, recalibrate, or replace any such defective device and/or Respondent did not thereafter conduct additional monitoring which did not confirm the initial monitoring result.
66. Respondent did not report within 24 hours to the Director of DOE the release or suspected release as described in Paragraph 65 above.
67. Respondent’s act and/or omission as alleged in Paragraph 66, above, constitutes a violation by Respondent of 20 DCMR § 6202.1 and .3.

COUNT 8

(Failure to investigate the possible release of product for UST No. 5 located at Facility 2)

68. The allegations of Paragraphs 1 through 67 of this CAFO are incorporated herein by reference.
69. 20 DCMR § 6203.3 provides, in pertinent part, that a “responsible party”, which includes the owner and operator of an UST, shall follow the procedures in 20 DCMR § 6203 (Preliminary Investigation and Confirmation of Releases: Systems Tests and Site Check) if a release is suspected. Pursuant to 20 DCMR § 6202.4(c), a release shall be suspected

if, among other things, monitoring results from a release detection method required under 20 DCMR §§ 6002 through 6015 indicate a release may have occurred, unless the monitoring device is found to be defective and is immediately repaired, recalibrated, or replaced, and additional monitoring does not confirm the initial result.

70. 20 DCMR § 6203.1 provides, with an exception not relevant to this matter, that a responsible party shall immediately investigate and confirm each suspected release of a regulated substance within 7 days or within such other time frame as may be required by the Director of DOE using the procedures set forth in 20 DCMR § 6203.
71. Respondent failed to undertake an immediate investigation and confirm a release or suspected release of regulated substances within the time prescribed by 20 DCMR § 6203.1 in June 2005 when the monthly release detection monitoring results for UST No. 5 located at Facility 2 indicated that a release may have occurred and Respondent did not find the monitoring device in issue to be defective and/or Respondent did not immediately repair, recalibrate, or replace any such defective device and/or Respondent did not thereafter conduct additional monitoring which did not confirm the initial monitoring result.
72. Respondent's act and/or omission as alleged in Paragraph 71, above, constitutes a violation by Respondent of 20 DCMR § 6203.1.

COMPLIANCE ORDER

73. Pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e, Respondent is hereby ordered to:
 - a. Within thirty (30) days of the effective date of this Compliance Order, register USTs Nos. 1, 2, and 3 at Facility 1 with MDE.
 - b. Immediately maintain all records of release detection monitoring of USTs at Facility 1 and 2 in accordance with COMAR 26.10.05, .06 and COMAR 20.10.04.05 and in accordance with 20 DCMR § 5602.4(c) and 20 DCMR § 6001.3, respectively.
 - c. Report all releases and suspected releases of regulated substances at Facility 2 in accordance with 20 DCMR § 6202.
 - d. Investigate and confirm all suspected releases of regulated substances at Facility 2 in accordance with 20 DCMR § 6203.
 - e. Within forty-five (45) days of the effective date of this Compliance Order, submit to EPA a report which documents and certifies Respondent's compliance with the terms of this Compliance Order.

74. Any notice, report, certification, data presentation, or other document submitted by Respondent pursuant to this CAFO which discusses, describes, demonstrates, supports any finding or makes any representation concerning Respondent's compliance or noncompliance with any requirement of this CAFO shall be certified by a principal executive officer or ranking elected official as defined at 40 C.F.R. § 270.11(a).

The certification required above shall be in the following form:

I certify that the information contained in or accompanying this [type of submission] is true, accurate, and complete. As to [the/those] identified portions of this [type of submission] for which I cannot personally verify [its/their] accuracy, I certify under penalty of law that this [type of submission] and all attachments were prepared in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

Signature: _____

Name: _____

Title: _____

75. All documents and reports to be submitted pursuant to this CAFO shall be sent to the following persons:
- a. Documents to be submitted to EPA shall be sent either by overnight mail or by certified mail, return receipt requested to:

Melissa Toffel (3LC70)
U. S. Environmental Protection Agency Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103

- b. One copy of all documents for Facility 1 submitted to EPA shall be sent by first class mail to:

Mr. Herb Meade
Administrator, Oil Control Program
Maryland Department of the Environment
Montgomery Park Business Center
1800 Washington Blvd., Suite 620
Baltimore, MD 21230

- c. One copy of all documents for Facility 2 submitted to EPA shall be sent by first class mail to:

Ms. Deborah Thomas
Department of the Environment
District of Columbia
51 N Street, N.E. 6th Floor
Washington, D.C. 20002

CIVIL PENALTY

76. In settlement of Complainant's claims for civil penalties for the violations alleged in this CA, Respondent agrees to pay a civil penalty in the amount of Twenty-Five Thousand Two Hundred Sixty-Eight Dollars (\$25,268.00) and perform the tasks set forth in the Compliance Order. The civil penalty amount is due and payable immediately upon Respondent's receipt of a true and correct copy of this CAFO. If Respondent pays the entire civil penalty within thirty (30) calendar days of the date on which this CAFO is mailed or hand-delivered to Respondent, no interest will be assessed against Respondent pursuant to 40 C.F.R. § 13.11(a)(1).
77. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest, administrative costs 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.
78. In accordance with 40 C.F.R. § 13.11(a), interest on any civil penalty assessed in a CAFO begins to accrue on the date that a copy of the CAFO is mailed or hand-delivered to the Respondent. However, EPA will not seek to recover interest on any amount of such 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).

79. The costs of the Agency'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 - 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 subsequent thirty (30) days the penalty remains unpaid.
80. A late payment penalty of six percent per year will be assessed monthly on any portion of a 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 a debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
81. The aforesaid settlement amount was based upon Complainant's consideration of a number of factors, including, but not limited to, the statutory factors in RCRA Section 9006(c) - (e), 42 U.S.C. § 6991e(c) - (e), and with EPA's Penalty Guidance for Violations of UST Regulations ("UST Guidance") dated November 4, 1990.
82. Respondent shall pay the amount described in Paragraph 76, above, by sending a certified or cashier's check payable to the "United States Treasury," as follows:
- a. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action, *i.e.*, RCRA-03-2008-0422;
 - b. All checks shall be made payable to "**United States Treasury**";
 - c. All payments made by check and sent by regular mail shall be addressed and mailed to:

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

Contact: Natalie Pearson, 314-418-4087
 - d. All payments made by check and sent by overnight delivery service shall be addressed and mailed to:

U.S. Environmental Protection Agency—Fines and Penalties
U.S. Bank
1005 Convention Plaza

Mail Station SL-MO-C2GL
St. Louis, MO 63101

Contact: Natalie Pearson, 314-418-4087

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

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727

SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"

- f. All electronic payments made through the automated clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

Automated Clearinghouse (ACH) for receiving US currency
PNC Bank
808 17th Street, NW
Washington, DC 20074
Contact: Jesse White 301-887-6548

ABA = 051036706
Transaction Code 22 - Checking
Environmental Protection Agency
Account 310006
CTX Format

- g. On-Line Payment Option:

WWW.PAY.GOV

Enter sfo 1.1 in the search field. Open and complete the form.

- h. The customer service phone numbers for the above payment centers are:

212-720-5000 (wire transfers, Federal Reserve Bank of New York)
800-762-4224 (ACH/Wire Info, PNC Bank)

Additional payment guidance is available at:

http://www.epa.gov/ocfo/finservices/make_a_payment_cin.htm

Payment by Respondent shall reference Respondent's name and address, and the EPA Docket Number of this CAFO. A copy of Respondent's check or a copy of Respondent's electronic transfer shall be sent simultaneously to:

Regional Hearing Clerk (3RC00)
EPA Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103 - 2029, and

Louis F. Ramalho
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency - Region III
1650 Arch Street
Philadelphia, PA 19103-2029.

FULL AND FINAL SATISFACTION

83. This CAFO constitutes a settlement by EPA of its claims for civil penalties pursuant to 9006(a) of RCRA, 42 U.S.C. § 6991e(a), for the violations alleged in this Consent Agreement.

RESERVATION OF RIGHTS

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

OTHER APPLICABLE LAWS

85. Nothing in this CAFO shall relieve Respondent of any duties otherwise imposed on it by applicable federal, state or local law and/or regulations.

AUTHORITY TO BIND THE PARTIES

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

ENTIRE AGREEMENT

87. This Consent Agreement and the attached Final Order constitute the entire agreement and understanding of the parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon

between the parties other than those expressed in this Consent Agreement and the attached Final Order.

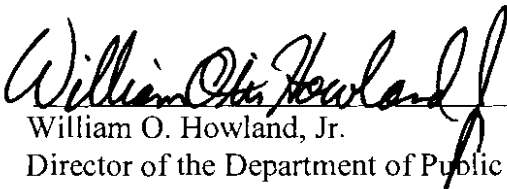
EFFECTIVE DATE

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

For Respondent:

Fleet Management Administration of the
Department of Public Works of the
Government of the District of Columbia

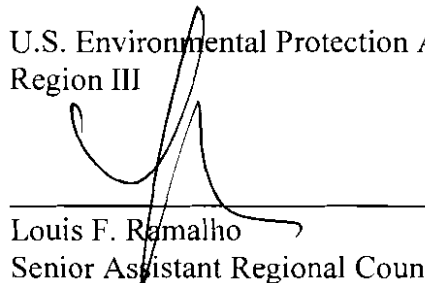
9-19-2008
Date


William O. Howland, Jr.
Director of the Department of Public Works

For Complainant:

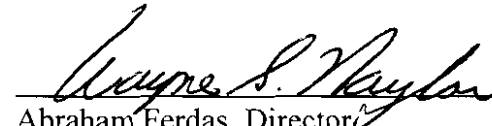
U.S. Environmental Protection Agency,
Region III

9/25/08
Date


Louis F. Ramalho
Senior Assistant Regional Counsel

After reviewing the foregoing Consent Agreement and other pertinent information, the Waste and Chemicals Management Division, EPA Region III, recommends that the Regional Administrator or the Regional Judicial Officer issue the Final Order attached hereto.

9/30/08
Date

By: 
Abraham Ferdas, Director
Land and Chemicals Division
EPA Region III

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

In the Matter of:)	
)	
Fleet Management Administration)	
Department of Public Works	)	U.S. EPA Docket Number
Government of the District of Columbia	)	RCRA-03-2008-0422
1725 15 th Street, N.E.)	
Washington, D.C. 20002)	
)	
RESPONDENT,)	
	)	Proceeding Under Section 9006(a) of the
	)	Resource Conservation and Recovery
DPW - Laurel Facility	)	Act, as amended, 42 U.S.C. § 6991e(a).
8300 Riverton Court)	
Laurel, MD 20724)	
)	
FACILITY 1,)	
)	
)	
DPW - Idaho Avenue Facility	)	FINAL ORDER
3320 Idaho Avenue, N.W.)	
Washington, D.C. 20016)	
)	
FACILITY 2.)	
)	
)	

RECEIVED
 2008 SEP 30 PM 4:28
 REGIONAL OFFICE
 EPA REGION III PHILA, PA

FINAL ORDER


Complainant, the Director, Land and Chemicals Division, U.S. Environmental Protection Agency - Region III, and Respondent, Fleet Management Administration of the Department of Public Works of the Government of the District of Columbia, 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. The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated herein as if set forth at length.

NOW, THEREFORE, PURSUANT TO Section 22.18(b)(3) of the *Consolidated Rules of Practice* and Section 9006(c) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6991e(c) (“RCRA”), and having determined, based on the representations of the parties in the attached Consent Agreement, that the civil penalty agreed to therein was based upon a consideration of the factors set forth in Section 9006(c) - (e) of RCRA, 42 U.S.C. § 6991e(c) - (e), **IT IS HEREBY ORDERED** that Respondent pay a civil penalty of Twenty-Five Thousand Two Hundred Sixty-Eight Dollars (\$25,268.00) in accordance with the payment provisions set forth in the attached Consent Agreement, and comply with each of the additional terms and conditions as specified in the attached Consent Agreement.

The effective date of this Final Order and the accompanying Consent Agreement is the date on which the Final Order, signed by the Regional Administrator of U.S. EPA Region III or the Regional Judicial Officer, is filed with the Regional Hearing Clerk of U.S. EPA - Region III.

Date: 9/30/08


Rehee Sarajian
Regional Judicial Officer
U.S. EPA, Region III


CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the date listed below, the original of the foregoing Consent Agreement and Final Order, Docket No. RCRA-03-2008-0422, was filed with the Regional Hearing Clerk, U.S. EPA - Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103-2029, and that a true and correct copy was sent to the following parties:

Overnight mail:

Ms. Christine Davis
General Counsel
Office of General Counsel
Government of the District of Columbia
Department of Public Works
2000 14th Street., N.W.
Washington, DC 20009

9/30/08
Date



Louis F. Ramalho
Sr. Assistant Regional Counsel
U.S. EPA - Region III
1650 Arch Street
Philadelphia, PA 19103-2029

RECEIVED
2008 SEP 30 PM 4: 28
REGIONAL HEARING CLERK
EPA REGION III PHILA, PA