

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Catherine Smith 9/25/18
Name of Case Attorney Date

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

Case Docket Number CAA-01-2018-0042

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:

Ronald Blanchard
Broadway Self-Storage, Inc.
2092 Broadway
South Portland, ME

Total Dollar Amount of Receivable \$ 5,000 Due Date: 10/25/18

SEP due? Yes No Date Due _____

Installment Method (if applicable)

INSTALLMENTS OF:

1ST \$ _____ on _____

2nd \$ _____ on _____

3rd \$ _____ on _____

4th \$ _____ on _____

5th \$ _____ 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: _____
in the Financial Management Office

Phone Number



U. S. ENVIRONMENTAL PROTECTION AGENCY – NEW ENGLAND
5 POST OFFICE SQUARE, SUITE 100 (OES04-4)
BOSTON, MA 02109-3912

VIA HAND DELIVERY

September 24, 2018

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

RECEIVED

SEP 25 2018

EPA ORC WS
Office of Regional Hearing Clerk

Re: Broadway Self-Storage, Inc./EPA Docket No. CAA-01-2018-0042

Dear Ms. Santiago:

Attached for filing in the above-referenced matter are an original and one copy of an executed *Consent Agreement and Final Order* (“CAFO”). Also attached are an original and one copy of a Certificate of Service and wire transfer documentation. **Respondent already has paid the \$5,000 penalty.**

EPA has also sent copies of the CAFO, the Certificate of Service, and this letter to the Respondent by Certified Mail.

Thank you for your assistance. Please call me if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Catherine Smith".

Catherine Smith
Senior Enforcement Counsel

cc: Linda King, Esq., Broadway Self Storage, Inc.
Paul Bulger, Esq., Jewell & Bulger, P.A.
Ronald Blanchard, Broadway Self Storage, Inc.
Mary Jane O'Donnell, EPA

Enclosures:

1. Original CAFO and copy of CAFO
2. Certificate of Service and copy
3. Wire transfer documentation

Re: Broadway Self-Storage, Inc./EPA Docket No. CAA-01-2018-0042

CERTIFICATE OF SERVICE

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

Original and one copy,
hand-delivered:

Ms. Wanda Santiago, Regional Hearing Clerk
U.S. EPA, Region I
5 Post Office Square, Suite 100
Boston, MA 02109-3812

Copy, by certified mail:

Paul S. Bulger, Esq.
Jewell & Bulger, P.A.
477 Congress Street, Suite 1104
Portland, Maine 04101
207-774-6665
Fax: 207-774-1626

Ronald Blanchard, President
Broadway Self Storage, Inc.
2092 Broadway
South Portland, Maine 04106

Linda King, Esq.
Broadway Self Storage, Inc.
2092 Broadway
South Portland, Maine 04106

Date:

9/24/18



Catherine Smith
Senior Enforcement Counsel
U.S. Environmental Protection Agency,
Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3812
617-918-1777
smith.catherine@epa.gov

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

RECEIVED

SEP 25 2018

EPA ORC
Office of Regional Hearing Clerk

In the Matter of:)
)
Broadway Self Storage, Inc..) Docket Nos.
2092 Broadway) CAA-01-2018-0042
South Portland, Maine)
)
Respondent.) **CONSENT AGREEMENT AND**
) **FINAL ORDER**
)
Proceeding under Section 113(d) of the)
Clean Air Act, 42 U.S.C. § 7413(d))

CONSENT AGREEMENT

Preliminary Statement

1. This is an administrative penalty assessment proceeding brought under Section 113(d) of the Clean Air Act (“CAA”), 42 U.S.C. § 7413(d), Section 22.13 and 22.18 of 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.
2. Complainant is the United States Environmental Protection Agency (“EPA”), Region 1. On EPA’s behalf, the Director of the Office of Environmental Stewardship, Region 1 is delegated the authority to settle civil administrative penalty proceedings under Section 113(d) of the CAA.
3. Respondent is Broadway Self Storage, Inc., a corporation doing business in the State of Maine.
4. Complainant and Respondent, having agreed that settlement of this action is in the public interest, consent to the entry of this consent agreement (the “Consent

Agreement” or “Agreement”) and the attached final order (the “Final Order” or “Order”) without adjudication of any issues of law or fact herein, and Respondent agrees to comply with the terms of this Consent Agreement and Final Order. This Consent Agreement and Final Order resolves Respondent’s civil penalty liability for the following alleged violations of the chemical accident prevention provisions of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), with regard to Respondent’s operation of propane storage tanks at its facility in South Portland, Maine:

- (a) Failure to timely file a risk management plan for Respondent’s storage of propane;
- (b) Failure to conduct and/or document mechanical integrity tests of emergency shut-off valves.

Taking into account the company’s ability to pay, the settlement requires the payment of a civil penalty of \$5,000.

Jurisdiction

5. This Consent Agreement is entered into pursuant to Section 113(d) of the CAA, and the Consolidated Rules, 40 C.F.R. Part 22. The alleged violations in this Consent Agreement are pursuant to Section 113(a)(3)(A) of the CAA, 42 U.S.C. § 7413(a)(3)(A).

6. EPA and the United States Department of Justice jointly determined that this matter is appropriate for an administrative penalty assessment. *See* 42 U.S.C. § 7413(d)(1).

7. The Regional Judicial Officer is authorized to ratify this Consent Agreement which memorializes a settlement between Complainant and Respondent. *See* 40 C.F.R. § 22.18(b).

8. The issuance of this Consent Agreement and attached Final Order simultaneously commences and concludes this proceeding. *See* 40 C.F.R. § 22.13(b).

Governing Law

CAA Authority

9. Section 112(r) of the CAA, 42 U.S.C. § 7412(r), authorizes EPA to promulgate regulations and programs in order to prevent and minimize the consequences of accidental releases of certain regulated substances. In particular, Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), mandates that EPA promulgate a list of substances that are known to cause or may reasonably be anticipated to cause death, injury or serious adverse effects to human health or the environment if accidentally released. Section 112(r)(5) of the CAA, 42 U.S.C. § 7412(r)(5), requires that EPA establish, for each listed substance, the threshold quantity over which an accidental release is known to cause or may reasonably be anticipated to cause death, injury, or serious adverse effects to human health. Finally, Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), requires EPA to promulgate requirements for the prevention, detection and correction of accidental releases of regulated substances, including a requirement that owners or operators of certain stationary sources prepare and implement a risk management plan.

10. The regulations promulgated pursuant to Section 112(r)(7) of the CAA are found at 40 C.F.R. Part 68 (Part 68”).

11. Section 112(r)(7)(E) of the CAA, 42 U.S.C. § 7412(r)(7)(E), renders it unlawful for any person to operate a stationary source subject to the regulations promulgated under the authority of Section 112(r) of the CAA in violation of such regulations.

12. Forty C.F.R. § 68.130 lists the substances regulated under Part 68 (“RMP chemicals” or “regulated substances”) and their associated threshold quantities, in accordance with the requirements of Section 112(r)(3) and (7) of the CAA.

13. A “stationary source” is defined by 40 C.F.R. § 68.3 as any buildings, structures, equipment, installations, or substance emitting stationary activities which belong to the same industrial group, which are located on one or more contiguous properties, which are under the control of the same person (or persons under common control), and from which an accidental release may occur.

14. A “process” is defined by 40 C.F.R. § 68.3 as any activity involving a regulated substance, including any use, storage, manufacturing, handling, or on-site movement of such substances, or combination of these activities. For the purpose of this definition, any group of vessels that are interconnected, or separate vessels that are located such that a regulated substance could be involved in a potential release shall be considered a single process.

15. Under 40 C.F.R. § 68.10, an owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process must comply with the requirements of Part 68 by no later than the latest of the following dates: (a) June 21, 1999; (b) three years after the date on which a regulated substance is first listed under

40 C.F.R. § 68.130; or (c) the date on which a regulated substance is first present above a threshold quantity in a process.

16. Each process in which a regulated substance is present in more than its associated threshold quantity is a “covered process,” as defined by 40 C.F.R. § 68.3.

17. A “covered process” is subject to one of three risk management programs. Program 1 is the least comprehensive, and Program 3 is the most comprehensive. Pursuant to 40 C.F.R. § 68.10(b), a covered process is subject to Program 1 requirements if, among other things, the distance to a toxic or flammable endpoint for a worst-case release assessment is less than the distance to any public receptor. Pursuant to 40 C.F.R. § 68.10(d), a covered process is subject to Program 3 requirements if the process does not meet the eligibility requirements for Program 1 and is either in a specified NAICS code or subject to the Occupational Safety & Health Administration’s (“OSHA’s”) process safety management (“PSM”) standard at 29 C.F.R. § 1910.119. Under 40 C.F.R. § 68.10(c), a covered process that meets neither Program 1 nor Program 3 eligibility requirements is subject to Program 2.

18. Forty C.F.R. § 68.12 mandates that the owner or operator of a stationary source subject to the requirements of Part 68 submit a Risk Management Plan (“RMP”) to EPA, as provided in 40 C.F.R. § 68.150. The RMP documents compliance with Part 68 in a summary format. For example, the RMP for a Program 3 process must document compliance with all of the elements of a Program 3 Risk Management Program, including 40 C.F.R. Part 68, Subpart A (including General Requirements and a Management System to Oversee Implementation of RMP); 40 C.F.R. Part 68, Subpart B (Hazard Assessment to Determine Off-Site Consequences of a Release); 40 C.F.R. Part 68,

Subpart D (Program 3 Prevention Program); and 40 C.F.R. Part 68, Subpart E (Emergency Response Program).

19. Sections 113(a) and (d) of the CAA, 42 U.S.C. §§ 7413(a) and (d), as amended by EPA's Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19, and promulgated in accordance with the Debt Collection Improvement Act of 1996 ("DCIA"), 31 U.S.C. § 3701, and the Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law 101-410, 28 U.S.C. § 2461 note, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, section 701 of Public Law 114-74, 129 Stat. 599 (Nov. 2, 2015), provide for the assessment of civil penalties for violations of Section 112(r) of the CAA in amounts up to \$37,500 per day per violation for violations occurring from December 7, 2013 through November 2, 2015, and in amounts up to \$46,192 per day per violation for violations that occurred after November 2, 2015.

General Allegations

20. Respondent is a corporation organized under the laws of the state of Maine with its principal office located in South Portland, Maine.

21. As a corporation, Respondent is a "person" within the meaning of Section 302(e) of the CAA, 42 U.S.C. § 7402(e), against whom an administrative penalty action may be issued under Section 113(a)(3) of the CAA, 42 U.S.C. § 7413(a)(3).

22. Respondent operates a facility located at 2092 Broadway, South Portland, Maine where it stores propane gas (the "Facility"). The Facility stores a daily average of approximately 15,000 pounds of liquid propane gas in three co-located tanks, with maximum amounts several times higher than that.

23. The propane tanks at the Facility are equipment from which an accidental release may occur, and are therefore “stationary sources,” as defined at Section 112(r)(2)(C), 42 U.S.C. § 7412(r)(2)(C), and 40 C.F.R. § 68.3.

24. Respondent’s storage of propane in the three co-located tanks is a “process,” as defined by 40 C.F.R. § 68.3. The tanks are sufficiently close to each other that a vapor cloud explosion from one of the tanks could release the contents of the other two.

25. At all times relevant to the violations alleged herein, Respondent is the “operator” of the Facility, as defined at Section 112(a)(9) of the CAA, 42 U.S.C. § 7412(a)(9).

26. Propane is a regulated flammable substance listed under 40 C.F.R. § 68.130, with a listed threshold quantity of 10,000 pounds.

27. On March 15, 2018, Respondent filed a Program 3 RMP for the propane storage and reported that it stored 120,000 pounds of propane in aboveground tanks at the Facility.

28. The chemical inventory report submitted by Respondent for 2017 indicates an average daily amount of 70,000 pounds of propane at the Facility.

29. Accordingly, the co-located propane storage tanks at the Facility are a “covered process” subject to the RMP provisions of Part 68 because Respondent “uses,” “stores,” and “handles” the RMP chemical propane in an amount greater than 10,000 pounds.

30. According to the Facility’s 2018 RMP, the distance to the endpoint for a worst-case release of the amount of propane stored in one tank (1 psi overpressure) is

greater than the distance to public receptors, including residences and other businesses. Likewise, modeling performed by the EPA RMPcomp model indicates that the endpoint for a worst-case release from one tank in the Process is greater than the distance to a public receptor.

31. Additionally, the propane storage at the Facility is subject to OSHA's PSM requirements at 29 C.F.R. § 1910.119 because Respondent's storage process involves propane, a Category 1 flammable gas, in an amount over the threshold quantity of 10,000 pounds.

32. Therefore, in accordance with 40 C.F.R. § 68.10(a)–(d), Respondents' use, storage, and/or handling of propane in the storage process is subject to the requirements of RMP Program 3.

33. On August 30, 2016, an EPA inspector visited the Facility (the "Inspection") to assess Respondent's compliance with Section 112(r) of the CAA. During the Inspection of the Facility, EPA documented that Respondent did not have an RMP for the storage of propane.

34. Complainant alleges the following violations of Part 68.

Count 1 – Failure to File a Risk Management Plans

35. Complainant re-alleges and incorporates by reference paragraphs 1 through 34 of this Consent Agreement.

36. Forty C.F.R. §§ 68.12(a) and 150(b) provide, in relevant part, that the owner or operator of a stationary source subject to 40 C.F.R. Part 68 must submit a single RMP reflecting all covered processes before the date on which a regulated substance is first present above a threshold quantity in a process.

37. A regulatory exclusion available for fuel held for sale at a retail facility does not apply unless more than half of the income from the sale of such fuel is derived from sales directly to end users. See 40 C.F.R. § 68.126 and definition of “retail facility” in 40 C.F.R. 68.3.

38. Since the end of 2014, the Facility has been storing propane fuel exclusively for resellers.

39. At the time of the Inspection in August of 2016, Respondent had not filed an RMP.

40. On February 17, 2017, EPA sent Respondent a copy of the inspection report and reminded Respondent to file an RMP.

41. Respondent filed an RMP on March 15, 2018.

42. Accordingly, Respondent failed to submit an RMP in violation of 40 C.F.R. § 68.12(a) and 150(b), from at least January 1, 2015 to March 15, 2018.

Count 2 – Failure to Comply with Mechanical Integrity Requirements

43. Complainant re-alleges and incorporates by reference paragraphs 1 through 42 of this CAFO.

44. Pursuant to 40 C.F.R. §§ 68.12(d)(3) and 68.73, the owner or operator of a Program 3 process must establish and implement written procedures to maintain the ongoing integrity of certain process equipment and to train employees accordingly. See 40 C.F.R. § 68.73(b). The owner or operator must train each employee involved in maintaining the ongoing integrity of the processing the procedures applicable to the employee’s job task. See 40 C.F.R. § 68.73(c). The owner or operator must inspect and test the equipment either in accordance with the manufacturer’s recommendations and

good engineering practices, or more frequently if needed based on prior operating experience. *See* 40 C.F.R. § 68.73(d). The owner or operator must also document the inspections or tests on process equipment; correct deficiencies; assure that any new equipment is suitable for the process application; perform checks to ensure that equipment is installed properly; and assure that maintenance materials and spare parts are suitable for the process application. *See* 40 C.F.R. §§ 68.73(d)-(f).

45. Recognized and generally accepted good engineering practices for propane facilities include the National Fire Protection Association's Code 58, the *Liquid Petroleum Gas Code* ("NFPA 58"); the National Propane Gas Association's *Certified Employee Training Program*, and the Propane Education and Research Council's *Operation and Maintenance Handbook for LP Gas Storage Facilities* ("PERC Handbook"). EPA's *Risk Management Program Guidance for Propane Storage Facilities (40 C.F.R. Part 68)* (March 2009) includes a maintenance checklist in Appendix C, drawn from the NPGA's Certified Employee Training Program. Moreover, NFPA 58 is incorporated into Maine's fire code. *See* State of Maine Office of State Fire Marshal's list of adopted NFPA codes and standards, available at <http://www.maine.gov/dps/fmo/laws/nfpa.html> (last visited June 11, 2018).

46. NFPA 58 and the PERC Handbook specify that emergency shut-off valves be tested annually and that the results be documented. *See* NFPA 58, Section 6.12.9 (2008 ed.) and 6.12.10 (2014 ed.), and PERC Handbook Section 7 (2015 ed.);

47. During the Inspection, the EPA inspector noted that Respondent did not have any written documentation of mechanical integrity tests on various equipment, including shut-off valves.

48. The mechanical integrity logs gathered from Respondent during the inspection do not mention emergency shut-off valves.

49. Accordingly, Respondent failed to conduct or document mechanical integrity tests of emergency shut-off valves in violation of 40 C.F.R. 68.73(d).

Terms of Consent Agreement

50. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:

- (a) admits that EPA has jurisdiction over the subject matter alleged in this Agreement;
- (b) neither admits nor denies the specific factual allegations contained in this Agreement;
- (c) consents to the assessment of a civil penalty as stated below;
- (d) consents to the conditions specified in this Agreement;
- (e) waives any right to contest the alleged violations of law set forth in this Agreement; and
- (f) waives its rights to appeal the Final Order accompanying this Agreement.

51. For the purpose of this proceeding, Respondent also:

- (a) agrees that this Agreement states a claim upon which relief may be granted against Respondent;
- (b) waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this Consent Agreement and Final Order, including any right of judicial review under Section 307(b)(1) of the CAA, 42 U.S.C. § 7607(b)(1);
- (c) consents to personal jurisdiction in any action to enforce this Agreement or Final Order, or both, in the United States District Court for the District of Maine, and
- (d) waives any rights it may possess at law or in equity to challenge the authority of EPA to bring a civil action in a United States District Court to

compel compliance with the Agreement or Final Order, or both, and to seek an additional penalty for such noncompliance, and agrees that federal law shall govern in any such civil action.

52. Respondent certifies that it has corrected the violations alleged in this Agreement and is currently in compliance with 40 C.F.R. Part 68 at the Facility. To address the specific violations alleged in this Consent Agreement and Final Order, Respondent has filed an RMP with EPA and has begun inspecting and testing the equipment in accordance with the manufacturer's recommendations and good engineering practices, including NFPA 58 and the PERC Handbook.

53. Respondent consents to the issuance of this Consent Agreement and Final Order and consents for purposes of settlement to pay the civil penalty cited below in paragraph 54;

54. Pursuant to Sections 113(d)(2)(B) and (e) of the CAA, 42 U.S.C. § 7413(d)(2)(B) and (e), and including, among other factors, a consideration of the economic impact of the penalty on Respondent's business, EPA has determined that it is fair and proper to assess a civil penalty of \$5,000 for the violations alleged in this matter.

Penalty Payment

55. Respondent agrees to:

(a) pay the total civil penalty of \$5,000 ("EPA Penalty") within 30 calendar days of the Effective Date of this Agreement;

(b) pay the EPA Penalty by remitting a check or making an electronic payment, as described below. The check or other payment shall be payable to "Treasurer of the United States" and reference "Docket Nos. CAA-01-2018-0042." The payment shall be remitted as follows:

If remitted by regular U.S. mail:

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

If remitted by any overnight commercial carrier:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, Missouri 63101

If remitted by wire transfer: Any wire transfer must be sent directly to the Federal Reserve Bank in New York City using the following information:

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

- (c) within 24 hours of payment of the EPA Penalty, send proof of 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 to:

Catherine Smith, Senior Enforcement Counsel
U.S. EPA, Region 1
5 Post Office Square, Suite 100
Mail Code OES04-4
Boston, MA 02109-3912

(d) “Proof of payment” means, as applicable, a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to the EPA requirements, in the amount due, and identified with “Docket No. CAA-01-2018-0042.”

56. *Collection of Unpaid Civil Penalty:* In the event that any portion of the EPA Penalty is not paid when due without demand, pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), Respondent will be subject to an action to compel payment, plus interest, enforcement expenses, and a nonpayment penalty. Interest will be assessed on the civil penalty if it is not paid within thirty (30) calendar days of the effective date of this CAFO. In that event, interest will accrue from the effective date of this CAFO at the “underpayment rate” established pursuant to 26 U.S.C. § 6621(a)(2). In the event that a penalty is not paid when due, an additional charge will be assessed to cover the United States’ enforcement expenses, including attorneys’ fees and collection costs. In addition, a quarterly nonpayment penalty will be assessed for each quarter during which the failure to pay the penalty persists. Such nonpayment penalty shall be 10 percent of the aggregate amount of Respondent’s outstanding civil penalties and nonpayment penalties hereunder accrued as of the beginning of such quarter. In any such collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review. There are other actions EPA may take if Respondent fails to timely pay: refer the debt to a credit reporting agency or a collection agency, 42 U.S.C. § 7413(d)(5), 40 C.F.R. §§ 13.13, 13.14, and 13.33; collect the debt by administrative offset (i.e., the withholding of money payable by the United States to, or held by the

United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 40 C.F.R. Part 13, Subparts C and H; suspend or revoke Respondent's licenses or other privileges; or suspend or disqualify Respondent from doing business with the EPA or engaging in programs that the EPA sponsors or funds, 40 C.F.R. § 13.17.

Additional Provisions

57. The terms, conditions, and compliance requirements of this Agreement may not be modified or amended except upon the written agreement of both parties, and approval of the Regional Judicial Officer.

58. The provisions of this Agreement shall apply to and be binding upon Respondent and its officers, directors, agents, trustees, servants, authorized representatives, successors, and assigns.

59. By signing this Agreement, Respondent acknowledges that this Consent Agreement and Final Order will be available to the public and agrees that this Agreement does not contain any confidential business information or personally identifiable information.

60. By signing this Agreement, the undersigned representative of Complainant and the undersigned representative of Respondent each certify that he or she is fully authorized to execute and enter into the terms and conditions of this Agreement and has the legal capacity to bind the party he or she represents to this Agreement.

61. By signing this Agreement, both parties agree that each party's obligations under this Consent Agreement and attached Final Order constitute sufficient consideration for the other party's obligations.

62. By signing this Agreement, Respondent certifies that the information it has supplied concerning this matter was at the time of submission true, accurate, and complete for each such submission, response, and statement. Respondent acknowledges that there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.

Effect of Consent Agreement and Attached Final Order

63. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this Consent Agreement and Final Order resolves only Respondent's liability for federal civil penalties for the violations specifically alleged in the Complaint.

64. Penalties paid pursuant to this Agreement shall not be deductible for purposes of federal taxes.

65. This Agreement constitutes the entire agreement and understanding of the parties and supersedes any prior agreements or understandings, whether written or oral, among the parties with respect to the subject matter hereof.

66. Nothing in this Agreement shall relieve Respondent of the duty to comply with all applicable provisions of the CAA and other federal, state, or local laws or statutes. Nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations or be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.

67. Nothing herein shall be construed to limit the power of EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.

68. EPA reserves the right to revoke this Agreement and settlement penalty if and to the extent that EPA finds, after signing this Agreement, that any information provided by Respondent was materially false or inaccurate at the time such information was provided to EPA. EPA shall give Respondent notice of its intent to revoke, which shall not be effective until received by Respondent in writing.

69. This Consent Agreement and Final Order in no way relieves Respondent or its employees of any criminal liability, and EPA reserves all its other criminal and civil enforcement authorities, including the authority to seek injunctive relief and the authority to undertake any action against Respondent in response to conditions which may present an imminent and substantial endangerment to the public health, welfare, or the environment.

70. Except as qualified above by paragraph 56, each party shall bear its own costs and fees in this proceeding including attorneys' fees. Respondent specifically waives any right to recover such costs from EPA pursuant to the Equal Access to Justice Act, 5 U.S.C § 504, or other applicable laws.

Effective Date

71. This Consent Agreement and attached Final Order shall become effective after execution of the Final Order by the Regional Judicial Officer, on the date of filing with the Hearing Clerk.

The foregoing Consent Agreement for: In the Matter of: Broadway Self Storage, Inc.,
Docket No. CAA-01-2018-0042, is hereby Stipulated, Agreed and Approved for Entry

For Broadway Self Storage, Inc.:

Ronald F. Blanchard
Name:

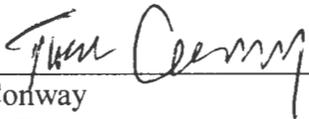
9/10/2018
Date

Title: PRESIDENT

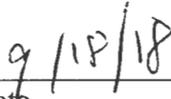
Company: Broadway Self Storage, Inc.

The foregoing Consent Agreement for: In the Matter of: Broadway Self Storage, Inc.,
Docket No. CAA-01-2018-0042, is hereby Stipulated, Agreed and Approved for Entry.

For U.S. EPA, Region 1:



Tim Conway
Acting Director
Office of Environmental Stewardship
U.S. EPA, Region 1



Date

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1**

RECEIVED

In the Matter of:)
)
Broadway Self Storage, Inc..)
2092 Broadway)
South Portland, Maine)
)
Respondent.)
)
Proceeding under Section 113(d) of the)
Clean Air Act, 42 U.S.C. § 7413(d))

Docket No.
CAA-01-2018-0042

SEP 25 2018
EPA ORC WS
Office of Regional Hearing Clerk

**CONSENT AGREEMENT AND
FINAL ORDER**

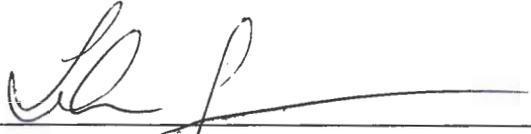
FINAL ORDER

In accordance with 40 C.F.R. § 22.18(c) of the United States Environmental Protection Agency’s Consolidated Rules of Practice, the Parties to this matter have forwarded the foregoing executed Consent Agreement for Final Approval. Section 113(d)(1) of the Clean Air Act (“CAA”), 42 U.S.C. § 7413(d)(1), authorizes EPA to issue an administrative penalty order to enforce the requirements of these statutes involved in this matter. In addition, Section 113(d)(2)(B) of the CAA, 42 U.S.C. § 7413(d)(2)(B), authorizes EPA to compromise, modify or remit, with or without conditions, the maximum civil penalty of up to \$46,192 per day per violation. Furthermore, the CAA penalty assessed must take into consideration the penalty factors set forth in Section 113(e)(1) of the CAA, § 7413(e)(1). Pursuant to these provisions, EPA has compromised the maximum civil penalty.

Pursuant to 40 C.F.R. § 22.18(b) of EPA’s Consolidated Rules of Practice, Section 113(d) of the CAA, 42 U.S.C. § 7413(d), the Consent Agreement is incorporated by reference into this Final Order and is hereby ratified. Respondent, Broadway Self Storage

Inc., is ordered to pay the civil penalty amount in the amount of \$5,000 in the manner indicated. The terms of the Consent Agreement will become effective on the date it is filed with the Regional Hearing Clerk.

SO ORDERED THIS 21st **DAY OF** September **2018.**



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

Re: Broadway Self-Storage, Inc./EPA Docket No. CAA-01-2018-0042

CERTIFICATE OF SERVICE

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

Original and one copy,
hand-delivered:

Ms. Wanda Santiago, Regional Hearing Clerk
U.S. EPA, Region I
5 Post Office Square, Suite 100
Boston, MA 02109-3812

Copy, by certified mail:

Paul S. Bulger, Esq.
Jewell & Bulger, P.A.
477 Congress Street, Suite 1104
Portland, Maine 04101
207-774-6665
Fax: 207-774-1626

Ronald Blanchard, President
Broadway Self Storage, Inc.
2092 Broadway
South Portland, Maine 04106

Linda King, Esq.
Broadway Self Storage, Inc.
2092 Broadway
South Portland, Maine 04106

Date: 9/24/18



Catherine Smith
Senior Enforcement Counsel
U.S. Environmental Protection Agency,
Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3812
617-918-1777
smith.catherine@epa.gov