

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for John E. Hultgren 9/16/14  
Name of Case Attorney Date

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

Case Docket Number CAA-01-2014-0053

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:

Lake Champlain Transportation  
Company  
King Street Dock  
Burlington, VT

Total Dollar Amount of Receivable \$ 62,000 Due Date: 10/12/14  
SIP  
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: \_\_\_\_\_  
in the Financial Management Office Phone Number

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
BEFORE THE ADMINISTRATOR

RECEIVED  
SEP 12 2014  
EPA ORC 105  
MAINE NE VERMONT NEW HAMPSHIRE

In the Matter of: )  
)  
Lake Champlain Transportation Company )  
King Street Dock )  
Burlington, Vermont )  
)  
Respondent )  
)

Docket No. CAA-01-2014-0053

**CONSENT AGREEMENT AND FINAL ORDER**

The Complainant, United States Environmental Protection Agency, Region I (“EPA”), alleges that Lake Champlain Transportation Company (“Respondent”) violated certain provisions of: (1) the National Emission Standards for Hazardous Air Pollutants for Shipbuilding and Ship Repair Facilities (Surface Coating) found at 40 C.F.R. Part 63, Subpart II (“Shipbuilding NESHAP”); (2) Clean Air Act (“CAA”) Title V operating permit requirements; and (3) Vermont State Implementation Plan (“SIP”) requirements for control of volatile organic compounds (“VOCs”) and for air permits, at one of Respondent’s facilities.

EPA and Respondent agree to settlement of this matter through this Consent Agreement and Final Order (“CAFO”) without the filing of an administrative complaint, as authorized under 40 C.F.R. § 22.13(b).

EPA and Respondent agree that settlement of this matter is in the public interest, and that entry of this CAFO without litigation is the most appropriate means of resolving this matter.

Therefore, before taking any testimony, upon the pleadings, without adjudication of any issue of fact or law, and upon consent and agreement of the parties, it is hereby ordered and adjudged as follows:

**A. PRELIMINARY STATEMENT**

1. The provisions of this CAFO shall apply to and be binding upon EPA and upon Respondent and its officers, directors, successors, and assigns. The “Effective Date” of this CAFO shall be defined as the date that this CAFO is filed with the Regional Hearing Clerk, as described in the Final Order on Page 20.

2. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in this CAFO. Respondent waives any defenses it might have as to jurisdiction and venue. Respondent consents to the terms of this CAFO.

3. Respondent neither admits nor denies the general or specific factual and legal allegations contained below in Section B. For purposes of this CAFO and any action necessary to enforce it, Respondent hereby waives its right to request a judicial or administrative hearing or otherwise to contest the allegations in this CAFO. Respondent waives any right to appeal this CAFO.

Statutory and Regulatory Authorities

4. Section 110(a) of the CAA, 42 U.S.C. § 7410(a), requires that each state prepare a SIP incorporating regulations designed to attain and maintain healthy air quality. A state must submit its SIP and any SIP revisions to EPA for approval. Once EPA has approved a SIP, EPA may enforce the SIP’s requirements and prohibitions pursuant to Section 113 of the CAA, 42 U.S.C. § 7413.

5. EPA has approved the Vermont SIP under Section 110 of the Act, 42 U.S.C. § 7410. The SIP contains various federally-approved portions of the Vermont Air Pollution Control Regulations (“VT APC Regulations”) and can be accessed at [http://www.epa.gov/region1/topics/air/sips/sips\\_vt.html](http://www.epa.gov/region1/topics/air/sips/sips_vt.html).

6. EPA promulgated the Shipbuilding NESHAP under Section 112 of the Act, 42 U.S.C. § 7412. Regulations promulgated under CAA Section 112 are enforceable by EPA in accordance with Section 113 of the Act, 42 U.S.C. § 7413.

7. Violations of CAA Title V requirements are enforceable by EPA in accordance with Section 113 of the Act, 42 U.S.C. § 7413.

8. Respondent’s alleged violations described herein render Respondent liable for penalties under Section 113(d) of the Act, 42 U.S.C. § 7413(d). Section 113(d) of the Act authorizes EPA to issue an administrative penalty order to enforce the requirements or prohibitions described herein.

9. EPA has provided notice to Respondent and to the Vermont Department of Environmental Conservation of EPA’s findings of violations described in this CAFO, at least 30 days prior to the issuance of an administrative penalty order pursuant to Section 113(d) of the Act.

10. Under Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and the Civil Monetary Inflation Rule (see Pub. L. 104-134 and 40 C.F.R. Part 19), EPA may assess penalties of up to (i) \$27,500 for each day of each violation of the Act occurring after January 30, 1997 through March 15, 2004, (ii) \$32,500 for each day of each violation of the Act occurring after March 15, 2004 through January 12, 2009, and (iii) \$37,500 for each day of each violation of the Act occurring after January 12, 2009.

11. Section 113(d) of the Act limits EPA's authority to issue administrative complaints to matters where the total penalty sought does not exceed \$200,000 and the first alleged date of violation occurred no more than twelve months prior to the initiation of the action, unless the EPA Administrator and the Attorney General for the U.S. Department of Justice ("DOJ") jointly determine that a matter involving a larger penalty or longer period of violation is appropriate for administrative action. Pursuant to the Debt Collection Improvement Act and its implementing regulations, the above-described penalty cap has been raised to \$320,000 for violations occurring after December 6, 2013.

12. This CAFO alleges violations that occurred more than twelve months ago. EPA and DOJ have jointly determined that this matter is appropriate for administrative action.

**B. EPA FINDINGS**

General Findings

13. Respondent performs a variety of repair services on commercial vessels.

14. On April 5, 2012, EPA issued a CAA Reporting Requirement to Respondent.

15. On or about June 19, 2012, Respondent submitted responses to the Reporting Requirement.

16. On January 8, 2013, EPA inspectors performed an inspection at Respondent's facility located at King Street Dock in Burlington, Vermont (the "King Street Facility").

17. On March 28, 2014, EPA issued Respondent a Clean Air Act Notice of Violation, which identified Shipbuilding NESHAP, CAA Title V operating permit, and

Vermont SIP violations at the King Street Facility.

18. At the King Street Facility, Respondent applies various coatings to commercial vessels, including paints and solvent thinners (collectively referred to herein as “coatings”), containing volatile organic compounds (“VOCs”) and hazardous air pollutants (“HAPs”).

19. Respondent uses spray guns, brushes, and rollers to apply coatings to commercial vessels at the King Street Facility. Respondent has stated that it purchased its two spray guns in or around 2005 and 2009, respectively.

#### Specific Findings

##### Alleged Violations of Shipbuilding NESHAP

20. The Shipbuilding NESHAP applies to shipbuilding and ship repair operations at any facility that is a “major source.” See 40 C.F.R. § 63.781(a).

21. The term “ship” refers to commercial and military vessels. See 40 C.F.R. § 63.782.

22. The term “major source” is defined by the Shipbuilding NESHAP as “any source that emits or has the potential to emit, in the aggregate, 9.1 megagrams per year (10 tons per year) or more of any HAP or 22.7 megagrams per year (25 tons per year) or more of any combination of HAP.” See 40 C.F.R. § 63.782. An “affected source” is any ship-building or ship repair facility subject to the Shipbuilding NESHAP that has surface coating operations with a minimum 1,000 liters (264 gallons) of annual marine coating usage. See 40 C.F.R. § 63.782.

23. EPA alleges that the King Street Facility is a “major source” of HAPs under Section 112(a)(1) of the CAA, 42 U.S.C. § 7412(a)(1), and subject to the

Shipbuilding NESHAP, because the use of spray guns, brushes and rollers to apply coatings give the Shelburne Yard Facility the potential to emit 10 tons per year or more of a HAP, and 25 tons per year or more of any combination of HAPs.

24. EPA alleges that the King Street Facility is an “affected source” of HAPs under 40 C.F.R. § 63.782, having used greater than 264 gallons of coatings in 2011.

25. Each owner or operator of an existing unaffected area source that increases its emissions of (or its potential to emit) HAP such that the source becomes a major source that is subject to the Shipbuilding NESHAP shall comply within one year after the date of becoming a major source. See 40 C.F.R. § 63.784(b).

26. Respondent purchased spray guns in or around 2005 and 2009, respectively, increasing the potential of the King Street Facility to emit 10 tons per year or more of a HAP, and 25 tons per year or more of any combination of HAPs. Therefore, EPA alleges that the King Street Facility became a major source in 2005, and within a year of becoming a major source was required to comply with the Shipbuilding NESHAP.

27. Pursuant to 40 C.F.R. § 63.787(a), EPA alleges that Respondent was required to submit to EPA written notification that the King Street Facility was subject to the Shipbuilding NESHAP as an affected source. EPA alleges that, to date, Respondent has not submitted an initial notification.

28. Accordingly, EPA has determined that Respondent has violated and continues to violate 40 C.F.R. § 63.787(a).

29. Pursuant to 40 C.F.R. § 63.787(b), EPA alleges that Respondent, as an affected source, was required to submit an implementation plan for the King Street

Facility. This implementation plan must address compliance with the requirements set forth in 40 C.F.R. § 63.787(b)(3). EPA alleges that, to date, Respondent has not submitted an implementation plan.

30. Accordingly, EPA has determined that Respondent has violated and continues to violate 40 C.F.R. § 63.787(b).

31. Pursuant to 40 C.F.R. § 63.788(b)(2), EPA alleges that Respondent was required to compile records on a monthly basis for the King Street Facility and maintain those records for a minimum of five years. At a minimum, these records include:

- a. all documentation supporting the initial notification;
- b. a copy of the affected source's approved implementation plan;
- c. the volume of each "low usage exempt" coating applied (as stated in 40 C.F.R. § 63.781(b), "low usage exempt" coatings are those that are used in quantities of less than 52.8 gallons per year, provided the total volume of exempt coatings does not exceed 264 gallons per year);
- d. identification of the coatings used, their appropriate coating categories, and the applicable volatile organic hazardous air pollutant ("VOHAP") limit;
- e. certification of the as-supplied VOC content of each batch of coating;
- f. a determination of whether coating containers meet the standards as described in 40 C.F.R. § 63.783(b)(2); and
- g. the results of any Method 24 testing done in accordance with Appendix A to 40 C.F.R. Part 60 or approved VOHAP measurement tests conducted on individual coating containers, as applied.

32. EPA alleges that Respondent has failed to keep some, if not all, of these



required monthly records.

33. Accordingly, EPA has determined that Respondent has violated and continues to violate 40 C.F.R. § 63.788(b)(2).

34. Pursuant to 40 C.F.R. § 63.788(c), EPA alleges that Respondent was required to submit semiannual compliance reports for the King Street Facility to EPA. The semiannual reports are due by the sixtieth day following completion of each six month period after the compliance date. EPA alleges that, to date, Respondent has not submitted any semiannual compliance reports for the King Street Facility.

35. Accordingly, EPA has determined that Respondent has violated and continues to violate 40 C.F.R. § 63.788(c).

36. Pursuant to 40 C.F.R. § 63.783(a), EPA alleges that Respondent's coatings at the King Street Facility are required to comply with specific as-applied VOHAP content emission limits set forth in Table 2 of the Shipbuilding NESHAP. EPA alleges that Respondent has used as-applied coatings in volumes exceeding the low-use exemption under 40 C.F.R. § 63.781(b) at the King Street Facility with VOHAP contents greater than the emission limits set forth in Table 2.

37. Accordingly, EPA has determined that Respondent has violated and continues to violate 40 C.F.R. § 63.783(a).

Alleged violations of Title V

38. It is unlawful for any person to operate a major source, or any other source subject to standards or regulations under Section 112 of the CAA, except in compliance with a Title V operating permit. Section 502(a) of the CAA, 42 U.S.C. § 7661a(a).

39. EPA alleges that the King Street Facility is a "major source" under

Section 501(2)(A) of the CAA, 42 U.S.C. § 7661(2)(A).

40. Accordingly, EPA alleges that Respondent was required to apply for and obtain a Title V operating permit for the King Street Facility pursuant to Sections 502(a) and 503(c) of the CAA, 42 U.S.C. §§ 7661a(a) and 7661b(c), and VT APC Regulation 5-1004.

41. To date, EPA alleges that Respondent has not applied for or obtained a Title V operating permit for the King Street Facility. Respondent has operated and continues to operate the King Street Facility without a Title V operating permit.

42. Accordingly, EPA has determined that Respondent has violated and continues to violate Sections 502(a) and 503(c) of the Clean Air Act, 42 U.S.C. §§ 7661a(a) and 7661b(c).

Alleged Violations of VT APC Regulation 5-253.20

43. The Vermont SIP, at VT APC Regulation 5-253.20, requires sources with allowable emissions of 50 tons or more per year of VOCs to either (1) install and operate emission capture and control techniques or use complying coatings that achieve an overall reduction in uncontrolled VOC emissions of at least 81 weight percent; (2) for each coating unit, limit the daily weighted average VOC content to 3.5 pounds of VOC per gallon or less of coating, or (3) comply with an approved alternative control plan.

44. Based on the maximum rated capacity of its coating operations, EPA alleges that the King Street Facility has allowable emissions above 50 tons per year of VOCs.

45. To date, EPA alleges that Respondent has not installed emission capture and control techniques, limited the VOC content of its coatings, nor requested an alternative control plan at/for the King Street Facility.

46. Accordingly, EPA has determined that Respondent has violated and

continues to violate VT APC Regulation 5-253.20.

Alleged Violations of VT APC Regulation 5-501

47. VT APC Regulation 5-501 prohibits the “construction, installation, or modification” of a source engaged in surface finishing and coating operations without a permit.

48. EPA alleges that Respondent’s acquisition and use of new spray guns at the King Street Facility since 2005 constitute “construction[s], installation[s], or modification[s]” of that source.

49. EPA alleges that, to date, Respondent has not applied for or obtained a permit for the King Street Facility under VT APC Regulation 5-501 for these constructions, installations, or modifications.

50. Accordingly, EPA has determined that Respondent has violated and continues to violate VT APC Regulation 5-501.

Alleged Violations of VT APC Regulation 5-502

51. VT APC Regulation 5-502 prohibits construction of any “major stationary source” or “major modification” until the requirements of Section 5-502 (including application of the most stringent emission rate (“MSER”)) have been satisfied.

52. EPA alleges that, based on the maximum rated capacity of its coating operations, the King Street Facility has allowable emissions of VOCs of 50 tons or more per year. Therefore, EPA alleges that Respondent has constructed and operated the King Street Facility as a “major stationary source” as defined by VT APC Regulation 5-101(44).

53. EPA alleges that Respondent’s installation of new spray guns at the King

Street Facility since 2005 increased its allowable emissions of VOCs by 40 tons per year or more and therefore they were “major modifications” as defined by VT APC Regulation 5-101(43) and (71).

54. EPA alleges that, to date, Respondent has not installed MSER or met other applicable requirements of VT APC Regulation 5-502 for the construction and operation of a major stationary source or of major modifications at the King Street Facility.

Accordingly, EPA has determined that Respondent has violated and continues to violate VT APC Regulation 5-502.

#### Summary of Findings

55. Based upon the forgoing, EPA alleges that Respondent:
- a. failed to submit an initial notification to EPA for the King Street Facility in violation of the Shipbuilding NESHAP at 40 C.F.R. §§ 63.787(a);
  - b. failed to submit an implementation plan for the King Street Facility in violation of the Shipbuilding NESHAP at 40 C.F.R. §§ 63.787(b);
  - c. failed to compile records on a monthly basis and maintain those records for a minimum of five years for the King Street Facility in violation of the Shipbuilding NESHAP at 40 C.F.R. §§ 63.788(b)(2);
  - d. failed to submit semi-annual summary reports to EPA for the King Street Facility in violation of the Shipbuilding NESHAP at 40 C.F.R. § 63.788(c);  
and
  - e. failed to comply with the emission limits set forth in Table 2 of the Shipbuilding NESHAP at the King Street Facility in violation of 40 C.F.R. § 63.783(a).

- f. failed to apply for or obtain a Title V operating permit for the King Street Facility in violation of Sections 502(a) and 503(c) of the CAA, 42 U.S.C §§ 7661a(a) and 7661b(c);
- g. failed to install emission capture and control techniques, limit the VOC content of its coatings, or request an alternative control plan at the King Street Facility in violation of VT APC Regulation 5-253.20;
- h. failed to apply for or obtain a permit under VT APC Regulation 5-501 for the construction, installation or modification of the King Street Facility;
- i. failed to meet the requirements of VT APC Regulation 5-502, including the application of MSER, at the King Street Facility before construction and operation or major modification in violation of VT APC Regulation 5-502.

**C. TERMS OF SETTLEMENT**

56. Without admitting or denying the specific factual allegations contained 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.

57. As a condition of settlement, Respondent agrees to comply with the non-penalty provisions of Appendix 1 (Terms of Compliance), which is incorporated herein by reference. Respondent shall comply with Appendix 1 beginning with the Effective Date of this CAFO, and shall continue to do so until the issuance by the VT DEC of permits for the King Street Facility with conditions as least as stringent as those of Appendix 1. Pending the issuance of such permits, Respondent shall comply with the terms of the EPA-approved permit applications.

58. Stipulated Penalties: Respondent shall be liable for stipulated penalties in the amount of \$1,000 for each day for the first through fifth day for each failure to perform any action required in Paragraph 57 and \$2,000 for each day thereafter for each failure to perform any action required in Paragraph 57.

59. EPA has compromised the maximum civil penalty of \$37,500 per day per violation authorized in this matter, applying the factors set forth in Section 113(e) of the Act and the 1991 Clean Air Act Stationary Source Civil Penalty Policy, including Respondent's cooperation in agreeing to perform the non-penalty obligations in Appendix 1 to this CAFO.

60. In light of the particular facts and circumstances of this matter, with specific reference to the statutory factors of Section 113(e)(1) of the Act, and considering Respondent's cooperation in agreeing to perform the non-penalty obligations in Appendix 1, EPA has determined that it is fair and proper to assess a civil penalty for the violations alleged in this CAFO in the amount of sixty-two thousand dollars (\$62,000). Respondent shall pay the penalty of sixty-two thousand dollars (\$62,000) within thirty (30) days of the Effective Date. Respondent shall submit a bank, cashier's, or certified check in payment of this penalty.

61. Respondent shall make payment by submitting a bank, cashier's, or certified check, to the order of the "Treasurer, United States of America," in the amount of sixty-two thousand dollars (\$62,000) to:

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

Respondent shall note the case name and docket number of this action on the check and in an accompanying cover letter, and shall simultaneously provide copies of the check and cover letter to:

Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region I  
Suite 100, Mail Code ORA18-1  
5 Post Office Square  
Boston, MA 02109-3912

and

John E. Hultgren  
Enforcement Counsel  
U.S. Environmental Protection Agency, Region I  
Suite 100, Mail Code OES4-02  
5 Post Office Square  
Boston, MA 02109-3912

62. Pursuant to Section 113(d)(5) of the CAA, if Respondent fails to pay any penalty amount it will be subject to an action to compel payment, plus interest, enforcement expenses, and a nonpayment penalty. 42 U.S.C. § 7413(d)(5). Interest will be assessed on the penalty if it is not paid by the due date established herein. In that event, interest will accrue from the Effective Date at the "underpayment rate" established pursuant to 26 U.S.C § 6621(a)(2). In the event that the 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. 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 penalties and nonpayment penalties hereunder accrued as of the beginning of such quarter.

**D. GENERAL PROVISIONS**

63. All submissions required by this Order shall be sent to:

If by Respondent:

Susan Studlien, Director  
Office of Environmental Stewardship  
U.S. Environmental Protection Agency—Region I  
Suite 100 Mail Code OES4-5  
5 Post Office Square  
Boston, MA 02109-3912  
Attention: Abdi Mohamoud

If by EPA:

Dale C. Arango, CFO  
Lake Champlain Transportation Company  
King Street Dock  
Burlington, VT 05401

With a copy to:

Edwin A. Steinmeyer, Esq.  
Lewis, Longman & Walker, P.A.  
315 S. Calhoun Street, Ste. 830  
Tallahassee, Florida 32301

64. The stipulated penalties in this CAFO, the civil penalty under Paragraph 60, above, any interest, and the nonpayment penalties and/or charges as described in Paragraph 62, above, shall represent penalties assessed by EPA and shall not be deductible for purposes of federal taxes, and shall not be deductible for purposes of state, or local taxes unless allowed by law.

65. Respondent shall pay stipulated penalties plus any interest due thereupon within fifteen (15) days of receipt of a written demand by EPA for such penalties. The method of payment shall be in accordance with the provisions of Paragraph 61 herein.



EPA may, in its sole discretion, elect not to seek stipulated penalties or to compromise any portion of stipulated penalties that accrue pursuant to this CAFO.

66. Payment of the civil penalty, and any interest, non-payment penalties, and/or other charges, does not waive, suspend, or modify the responsibility of Respondent to comply with the requirements of all of the federal laws and regulations administered by EPA and shall not be a defense to any actions subsequently commenced pursuant to said laws and regulations.

67. This CAFO constitutes a settlement by EPA of all claims against Respondent for civil penalties pursuant to Section 113 of the Act for the violations alleged in Section B of this CAFO. Compliance with this CAFO shall not be a defense to any other actions subsequently commenced pursuant to federal laws and regulations administered by EPA for matters not addressed in this CAFO, and it is the responsibility of Respondent to comply with all applicable provisions of federal, state, or local law. EPA reserves all its other criminal and civil enforcement authorities, including the authority to seek injunctive relief and the authority to address imminent hazards.

68. Except as described in Paragraph 62, each party shall bear its own costs and fees in this proceeding, including attorneys' fees, and specifically waives any right to recover such costs from the other party pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504, or other applicable law.

69. Each party certifies that at least one of their undersigned representatives is fully authorized to enter into the terms and conditions of this CAFO and to execute and legally bind such party to this document.

70. Appendix 1 (Terms of Compliance) is attached hereto and incorporated

*In the Matter of Lake Champlain Transportation Company: Docket CAA-01-2014-0053*

herein as enforceable parts of this CAFO.


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FOR LAKE CHAMPLAIN TRANSPORTATION COMPANY


Name Dale C. Arango Date 8-25-2014


Title C.F.O.

FOR UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

  
\_\_\_\_\_  
Susan Studlien, Director  
Office of Environmental Stewardship  
U.S. Environmental Protection Agency, Region I

  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
John E. Hultgren  
Enforcement Counsel  
U.S. Environmental Protection Agency, Region I

  
\_\_\_\_\_  
Date

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION I**

IN THE MATTER OF:	)	
	)	
Lake Champlain Transportation Company	)	EPA Docket No.
King Street Dock	)	CAA-01-2014-0053
Burlington, Vermont,	)	
	)	
Respondent.	)	
	)	

**FINAL ORDER**

In accordance with 40 CFR § 22.18(b) 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, 42 U.S.C. § 7413(d)(1), authorizes EPA to issue an administrative penalty to enforce the requirements of this Act. In addition, Section 113(d)(2)(B) of the Clean Air Act, 42 U.S.C. § 7413(d)(2)(B), authorizes EPA to compromise the maximum civil penalty of \$37,500 per day per violation by applying the penalty factors set forth in Section 113(e)(1) of the CAA, 42 U.S.C. § 7413(e)(1), to the facts and circumstances of this case, including Respondent's significant cooperation to date and agreement to perform non-penalty conditions. Pursuant to these provisions, EPA has modified the maximum civil penalty and imposed the conditions described in Section C and Appendix 1 of the Consent Agreement. Respondent has consented to the terms of this Consent Agreement.

Pursuant to 40 C.F.R. § 22.18(b) of EPA's Consolidated Rules of Practice and Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d), the Consent Agreement is incorporated by reference into this Final Order and is hereby ratified. The Respondent, Lake Champlain

Transportation Company, is ordered to pay a civil penalty amount in the amount of \$62,000 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 10<sup>th</sup> DAY OF SEPTEMBER 2014.**



LeAnn Jensen  
Acting Regional Judicial Officer

APPENDIX 1

Terms of Compliance  
Consent Agreement and Final Order  
Lake Champlain Transportation Company – King Street Facility

1. Respondent shall comply with the National Emission Standards for Hazardous Air Pollutants for Shipbuilding and Ship Repair Facilities (Surface Coating) found at 40 CFR Part 63, Subpart II (“Shipbuilding NESHAP”). Without limitation, Respondent shall comply with the following requirements:
  - a. submit initial notifications to EPA for the King Street Facility pursuant to 40 C.F.R. § 63.787(a) no later than the Effective Date of the Consent Agreement and Final Order (“CAFO”);
  - b. submit to EPA for its review and approval, draft implementation plans for the King Street Facility pursuant to 40 C.F.R. § 63.787(b) no later than 7 days after the Effective Date of the CAFO;
  - c. compile records on a monthly basis for the King Street Facility and maintain those records for a minimum of 5 years pursuant to 40 C.F.R. § 63.788(b)(2), starting immediately upon receipt of EPA’s final approval of the implementation plans;
  - d. submit semi-annual summary reports to EPA for the King Street Facility pursuant to 40 C.F.R. § 63.788(c) (or on a schedule approved by the VT DEC for submitting semi-annual reports concurrent with Title V monitoring reports) starting no later than 180 days after receipt of EPA’s final approval of the implementation plans; and
  - e. comply with the emission limits set forth in Table 2 of the Shipbuilding NESHAP at the King Street Facility pursuant to 40 C.F.R. § 63.783(a), starting immediately upon receipt of EPA’s final approval of the implementation plans.
2. Within 30 days of the Effective Date of the CAFO, Respondent shall submit to EPA for its review, a draft application for permits for the King Street Facility pursuant to (1) Vermont Air Pollution Control (“VT APC”) Regulations 5-501, 5-502, 5-253.20 and 5-1104; and (2) Title V operating permits for the King Street Facility pursuant to Sections 502(a) and 503(c) of the Clean Air Act, 42 §§ 7661a(a) and 7661b(c). Within 7 days of receipt of EPA’s final notice that the draft application is satisfactory, Respondent shall submit the VT APC permit and Title V permit application to the Vermont Department of Environmental Conservation (“VT DEC”). Respondent may apply for permits for the King Street Facility that satisfy VT APC Regulation 5-502 through the use of an enforceable overall volatile organic compounds allowable emissions cap of 49 tons per year or less for the King Street Facility, such caps to be satisfied on a 12-month rolling basis.
3. Respondent shall implement a record-keeping system that will record the

information necessary to demonstrate compliance with the CAFO.

4. Respondent shall submit to EPA quarterly reports for 12 months to demonstrate compliance with the terms of the CAFO. The first quarterly report will cover the three-month period following the Effective Date of the CAFO. Respondent shall submit each quarterly report within 60 days of the end of the quarter.



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION I – NEW ENGLAND**

\_\_\_\_\_  
IN THE MATTER OF )  
)

Lake Champlain Transportation Company )  
King Street Dock )  
Burlington, Vermont )

Respondent )  
\_\_\_\_\_ )

Docket No: CAA-01-2014-0053

**CONSENT AGREEMENT AND  
FINAL ORDER**

**CERTIFICATE OF SERVICE**


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

One Copy by First Class Mail to:

Edwin A. Steinmeyer, Esq.  
Lewis, Longman & Walker, P.A.  
315 S. Calhoun Street, Ste. 830  
Tallahassee, Florida 32301

Dated : 9/12/14

Signed: \_\_\_\_\_

  
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