

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Tim Conway 3/21/12
Name of Case Attorney Date

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

Case Docket Number CAA-01-2011-0127

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:

Durham School Services
4300 Weaver Parkway
Warrenville, Illinois 60555

Total Dollar Amount of Receivable \$ 90,000 Due Date: 4/20/12

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



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
NEW ENGLAND REGION
FIVE POST OFFICE SQUARE, BOSTON, MA 02109

RECEIVED

2012 MAR 21 A 10:52

EPA ORC
OFFICE OF
REGIONAL HEARING CLERK

March 21, 2012

Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region I
Five Post Office Square, Suite 100
Boston, Massachusetts 02109

Re: Durham School Services, Respondent
Docket No. CAA-01-2011-0127

Dear Ms. Santiago:

Enclosed for filing in the above-referenced matter, please find the original and one copy of the executed Consent Agreement and Final Order in this matter.

Thank you for your assistance in this matter.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Timothy M. Conway".

Timothy M. Conway
Senior Enforcement Counsel

Enclosures

cc:
Colin Van Dyke, Esquire
Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.

RECEIVED

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR 2012 MAR 21 A 10:52

EPA ORC
OFFICE OF
REGIONAL HEARING CLERK WS

In the Matter of:)
)
DURHAM SCHOOL SERVICES)
4300 Weaver Parkway)
Warrenville, Illinois 60555)
)
Respondent)
)

Docket No. CAA 01-2011-0127

CONSENT AGREEMENT AND FINAL ORDER

The Complainant, United States Environmental Protection Agency, Region I ("EPA"), alleges that Durham School Services ("Respondent" or "Durham") violated certain provisions of the Connecticut, Massachusetts and Rhode Island state implementation plans ("SIPs") that prohibit the excessive idling of motor vehicles. EPA may enforce SIP provisions under Section 113 of the Clean Air Act (the "Act"), 42 U.S.C. § 7413.

EPA issued a Complaint and Notice of Opportunity for Hearing to Respondent on September 26, 2011. Respondent moved for and was granted a number of extensions of time in which to file an answer.

EPA and Respondent agree that settlement of this matter is in the public interest, and that entry of this Consent Agreement and Final Order ("CAFO") without further litigation is the most appropriate means of resolving this matter.

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 on EPA and on Respondent, its officers, directors, successors and assigns.
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 specific factual and legal allegations 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.
4. Under Section 113(d)(1)(B) of the Act, 42 U.S.C. § 7413(d)(1)(B), the Debt Collection Improvement Act (“DCIA”), 31 U.S.C. § 3701, and EPA’s Civil Monetary Penalty Inflation Adjustment Rules, promulgated thereunder at 40 C.F.R. Part 19, EPA may assess a civil administrative penalty of up to \$37,500 per day for each violation of the Clean Air Act occurring after January 12, 2009.

B. EPA FINDINGS

5. The State of Connecticut has adopted an “applicable implementation plan” within the meaning of Section 113(a)(1) of the Act. This plan, commonly known as a SIP, has been approved by EPA under Section 110 of the Act, 42 U.S.C. § 7410. The Connecticut SIP includes various federally-approved portions of the Regulations of Connecticut State Agencies (“RCSA”).
6. The Connecticut SIP includes the regulation at § 19-508-18(a)(5) of the RCSA (the “Connecticut idling regulation”), which states that no mobile source engine shall be allowed to operate for more than three consecutive minutes when the mobile source is not in motion, unless such operation accords with a listed exception.

7. At a school bus facility operated by Respondent in Storrs, Connecticut, EPA alleges to have observed the operation of the engines of mobile sources that were not in motion, for periods in excess of three minutes.

8. EPA alleges that Respondent allowed the mobile source engines to operate in excess of prescribed limits and that such operation did not accord with any exception in §§ 19-508-18(a)(5)(i) through (v).

9. Accordingly, EPA alleges that Respondent violated the Connecticut idling regulation at § 19-508-18(a)(5).

10. The Commonwealth of Massachusetts has adopted a SIP within the meaning of Section 113(a)(1) of the Act, which has been approved by EPA under Section 110 of the Act, 42 U.S.C. § 7410. The Massachusetts SIP includes various federally approved portions of the Massachusetts Air Pollution Control Regulations at 310 CMR § 7.00 *et seq.*

11. The Massachusetts SIP includes the regulation at 310 CMR § 7.11(1)(b) (the “Massachusetts idling regulation”), which provides that no person shall cause, suffer, allow, or permit the unnecessary operation of the engine of a motor vehicle while such vehicle is stopped for a foreseeable period in excess of five minutes, unless such operation is in accordance with a listed exception.

12. At a school bus facility operated by Respondent in Worcester, Massachusetts, EPA alleges to have observed the unnecessary operation of the engines of motor vehicles while such vehicles were stopped for a foreseeable period in excess of five minutes. EPA also alleges that the observed idling did not accord with any exception listed in 310 CMR §§ 7.11(1)(b)(1), (2) or (3).

13. Accordingly, EPA alleges that Respondent violated the Massachusetts idling regulation at

310 CMR § 7.11(1)(b).

14. The State of Rhode Island has adopted a SIP within the meaning of Section 113(a)(1) of the Act, which has been approved by EPA under Section 110 of the Act, 42 U.S.C. § 7410. The Rhode Island SIP includes various federally-approved portions of the Rhode Island Air Pollution Control Regulations (“APCR”).

15. The Rhode Island SIP includes APCR 45, which provides that no person, entity, owner or operator shall cause, allow or permit the unnecessary idling of the engine of a diesel motor vehicle while said vehicle is stopped for a period of time in excess of five consecutive minutes in any 60 minute period, except as provided in the exemptions listed in APCR § 45.5.

16. At a school bus facility operated by Respondent in Johnston, Rhode Island, EPA alleges to have observed the idling of the engines of diesel motor vehicles while said vehicles were stopped for periods of time in excess of five consecutive minutes in any 60 minute period. EPA also alleges that the observed idling did not accord with any exemptions in APCR § 45.5.

17. Accordingly, EPA finds that Respondent violated the Rhode Island idling regulation at APCR 45.

18. EPA alleges that Respondent violated Connecticut, Massachusetts and Rhode Island idling regulations, rendering Respondent liable for penalties under Section 113(d) of the Act.

19. EPA has provided notice to Respondent, to the Connecticut Department of Energy and Environmental Protection, to the Massachusetts Department of Environmental Protection, and to the Rhode Island Department of Environmental Management of EPA’s findings of violations described in this CAFO, at least 30 days prior to the issuance of an administrative penalty order under Section 113(d) of the Act.

C. TERMS OF SETTLEMENT

20. Respondent shall comply with all SIP regulations that limit engine idling by motor vehicles at all facilities owned or operated by Respondent. As of the date of this CAFO, the jurisdictions with such SIP regulations include: the States of Connecticut, Hawaii, Massachusetts, New Jersey, Rhode Island, and Virginia; the City of Chattanooga, Tennessee; the Counties of Bastrop, Caldwell, Hays, Travis, and Williamson, Texas; and the Towns of Elm, Westlake, Austin, Bastrop, Lockhart, Luling, Round Rock, and San Marcos, Texas. Respondent shall also implement the measures described in Attachment 1, incorporated herein by reference, which are intended to promote Respondent's compliance with motor vehicle idling regulations in the United States.

- a. Within 60 days of the effective date (the date of filing with the Regional Hearing Clerk) of this CAFO, Respondent shall commence implementation of the Attachment 1 measures, and shall thereafter implement the measures for a period of 10 months.
- b. With respect to implementation of the Attachment 1 measures, Respondent shall submit reports to EPA pursuant to Paragraph 46 of this CAFO.
- c. Following the receipt of each of the Attachment 1 implementation reports referenced in Paragraph 46, EPA will do one of the following:
 - i. accept the implementation report;
 - ii. reject the implementation report, notify Respondent in writing of deficiencies in the implementation or the implementation report and grant Respondent an additional forty-five (45) days in which to correct any deficiencies; or

iii. if any such deficiencies cannot be corrected in 45 days, reject the implementation report and seek stipulated penalties in accordance with Paragraph 21 of this CAFO.

21. Stipulated Penalties: Respondent shall be liable for stipulated penalties for actions required in Attachment 1 to this CAFO as follows:

a. Respondent shall be liable for stipulated penalties in the amount of \$1,500 for every day on which Respondent fails to:

- i. commence timely implementation of the required measures in accordance with the provisions of Attachment 1 to this CAFO;
- ii. implement the required measures in accordance with the provisions of Attachment 1 to this CAFO for the required period; or
- iii. submit complete and timely reports as required by Paragraph 46 of this CAFO.

b. Following EPA's determination that Respondent is liable for stipulated penalties pursuant to this Paragraph, EPA will send Respondent a written demand for the payment of the penalties. All penalties accruing under this Paragraph shall be due and payable to EPA within 30 days of Respondent's receipt of a demand for payment of stipulated penalties, unless Respondent invokes the dispute resolution procedures of this CAFO. All payments shall be made in accordance with the procedures in Paragraph 23 of this CAFO.

22. In light of the statutory factors of Section 113(e) of the Act, 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 \$90,000. Respondent shall pay the penalty of \$90,000 within thirty (30) days of the effective

date of this CAFO. Respondent shall submit a bank, cashier's or certified check in payment of this penalty.

23. Respondent shall make payment by submitting a check, to the order of the "Treasurer, United States of America," in the amount of \$90,000 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
5 Post Office Square, Suite 100 (ORA18-1)
Boston, MA 02109-3912

and

Tim Conway
Senior Enforcement Counsel
U.S. Environmental Protection Agency, Region I
5 Post Office Square, Suite 100 (OES04-3)
Boston, MA 02109-3912

24. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty if it is not paid within thirty (30) calendar days of the entry of the CAFO. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b)(2), promulgated under 31 U.S.C. § 3717. A charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorneys' fees in accordance with 31 C.F.R. § 901.9(c). In

addition, a penalty charge of six percent per year compounded annually will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due in accordance with 31 C.F.R. § 901.9(d). Should assessment of the penalty charge on the debt be required, it will be assessed as of the first day payment is due.

SUPPLEMENTAL ENVIRONMENTAL PROJECTS

25. Respondent shall perform the supplemental environmental projects (“SEPs”) described below and in Attachment 2 to establish a policy and practice to prevent the excessive idling of all school buses operated by Durham in the United States, and to implement early retirement of older, higher-emission school buses and replace them with new, lower-emission school buses. The SEPs are intended to secure significant environmental and public health protection and improvements by reducing diesel emissions from school bus idling, and by reducing the exposure of students, employees, and the general public to diesel emissions. Respondent shall perform the SEPs in accordance with Attachment 2, incorporated herein by reference.

26. The total expenditure for each SEP shall not be less than the following. For Project 1: Training and Management Solutions, the total expenditure shall not be less than eighty-three thousand dollars (\$83,000); for Project 2: Retirement/Replacement of Buses, the total expenditure shall not be less than two hundred sixty-five thousand dollars (\$265,000). For each SEP, Respondent shall include documentation of the expenditures made in connection with the SEP, cumulatively through the date so indicated in the submittal of the SEP Completion Report, as part of the SEP Completion Report.

27. For each SEP, Respondent hereby certifies that, as of the effective date of this CAFO, Respondent is not required to perform or develop the SEP by any federal, state or local law or regulation; nor is Respondent required to perform or develop the SEP by agreement, grant or as

injunctive relief in this or any other case. Respondent further certifies that it has not received, and is not presently negotiating to receive, credit in any other enforcement action for the SEP. Respondent specifically certifies as follows: It is not a party to any open federal financial assistance transaction that is funding or could be used to fund the same activity as the SEP. To the best of Respondent's knowledge and belief after reasonable inquiry, there is no such open federal transaction that is funding or could be used to fund the same activity as the SEP, nor has the same activity been described in an unsuccessful federal financial assistance transaction proposal submitted to EPA within two years of the date of this settlement (unless the project was barred from funding as statutorily ineligible). For the purposes of this certification, the term "open federal financial assistance transaction" refers to a grant, cooperative agreement, loan, federally-guaranteed loan guarantee or other mechanism for providing federal financial assistance whose performance period has not yet expired.

28. Respondent agrees that any failure to submit a SEP Completion Report by the date specified in Paragraph 46 shall be deemed a violation of the CAFO and Respondent shall become liable for stipulated penalties under the CAFO, in addition to its responsibility to submit the SEP Completion Report.

29. Respondent agrees that EPA may inspect its facilities at any time in order to confirm that any SEP is being undertaken in conformity with the representations made herein.

30. For each SEP, Respondent shall operate the SEP for a period as described in Attachment 2 to this CAFO. Respondent may seek an extension of time for initiating or performing an activity under the SEP in accordance with the Force Majeure provisions of Attachment 3, incorporated herein by reference.

31. For each SEP, following the receipt of the SEP Completion Report described in Paragraph

46 below, EPA will do one of the following:

- a. accept the SEP Completion Report;
- b. reject the SEP Completion Report, notify the Respondent in writing of deficiencies in the SEP or SEP Completion Report and grant Respondent an additional forty-five (45) days in which to correct any deficiencies; or
- c. if any such deficiencies cannot be corrected in 45 days, reject the SEP Completion Report and seek stipulated penalties in accordance with Paragraph 32 of this CAFO.

32. In the event that Respondent fails to comply with any of the terms or provisions of this CAFO relating to the performance of a SEP described in Paragraphs 25-31 above and Paragraph 46 below and/or to the extent that the actual expenditures for the SEPs do not equal or exceed the cost of the SEP described in Paragraph 26 above, Respondent shall be liable for stipulated penalties according to the provisions set forth below:

- a. Except as provided in subparagraph (b) immediately below, for a SEP which has not been completed satisfactorily pursuant to this CAFO, Respondent shall pay a stipulated penalty to the United States in the following amounts, plus interest from the effective date of the CAFO, for Project 1: Training and Management Solutions, \$100,000, for Project 2: Retirement/Replacement of Buses, \$290,000.
- b. If the SEP is not completed satisfactorily, but the Respondent: (A) made good faith and timely efforts to complete the project; and (B) certifies, with supporting documentation, that at least 90 percent of the amount of money which was required to be spent was expended on the SEP, Respondent shall not be liable for any stipulated penalty.
- c. If the SEP is satisfactorily completed, but the Respondent spent less than 90

percent of the amount of money required to be spent for the project, Respondent shall pay a stipulated penalty to the United States equal to the amount resulting from the following calculation: The amount set forth in Paragraph 26 above, less the amounts actually expended by Respondent as documented pursuant to Paragraph 46 above.

d. If the SEP is satisfactorily completed, and the Respondent spent at least 90 percent of the amount of money required to be spent for the project, Respondent shall not be liable for any stipulated penalty.

e. For failure to submit a SEP Completion Report required by Paragraph 46 below in a complete and timely manner, Respondent shall pay a stipulated penalty in the amount of \$2500 for each day after the SEP Completion Report was originally due under Paragraph 46 until the report is submitted.

f. For failure to submit any other report or information required by EPA under Paragraphs 25-31 above or Paragraph 46 below in a complete and timely manner, Respondent shall pay a stipulated penalty in the amount of \$1500 for each day after the report or information was originally due until the report or information is submitted.

g. For each SEP, the determinations of whether the SEP has been satisfactorily completed, whether the Respondent has made a good faith, timely effort to implement the SEP, and whether a Force Majeure event has delayed implementation of the SEP in accordance with Attachment 2, shall be made by EPA in the exercise of its reasonable discretion.

h. Following EPA's determination that Respondent is liable for stipulated penalties pursuant to this Paragraph, EPA will send Respondent a written demand for the

payment of the penalties. All penalties accruing under this Paragraph shall be due and payable to EPA within 30 days of Respondent's receipt of a demand for payment of stipulated penalties, unless Respondent invokes the dispute resolution procedures of this CAFO. All payments shall be made in accordance with the procedures in Paragraph 23 of this CAFO.

33. For each SEP, any public statement, oral or written, in print, film or other media, made by Respondent making reference to the SEP shall include the following language: "This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental Protection Agency for alleged violations of the Clean Air Act."

34. With respect to any injunctive relief or SEP under the terms of this CAFO:

- a. this CAFO shall not be construed to constitute EPA approval of any equipment or technology installed by Respondent; and
- b. Respondent agrees to indemnify, save and hold harmless the EPA, its officials, agents, contractors, subcontractors, employees and representatives, from any and all claims or causes of action:
 - i. arising from, or on account of, acts or omissions of Respondent, Respondent's officers, directors, employees, agents, contractors, subcontractors, receivers, trustees, successors or assigns; and
 - ii. for damages or reimbursement arising from, or on account of, any contract, agreement, or arrangement between Respondent and any persons or entities for performance of work.

35. EPA and Respondent agree that nothing in this CAFO will be construed as imposing an enforceable motor vehicle idling restriction on Respondent in any jurisdiction where there is no

statute or regulation limiting motor vehicle idling.

D. GENERAL PROVISIONS

36. 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
5 Post Office Square, Suite 100 (OES04-2)
Boston, MA 02114
Attention: Abdi Mohamoud

If by EPA:

Cristen Kogl, Esq.
Senior Vice President and General Counsel
National Express Corporation
4300 Weaver Parkway
Warrenville, IL 60555

With a copy to:

Colin G. Van Dyke, Esq.
Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.
One Financial Center
Boston, MA 02111

37. The stipulated penalties in this CAFO, the civil penalty under Paragraph 22, above, any interest, and the nonpayment penalties and/or charges as described in Paragraph 24, 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. For federal income tax purposes, Respondent agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP. In addition, Respondent hereby agrees that, within thirty (30) days of the date it submits its federal tax reports for the calendar year in which the above-identified SEP is completed, it will submit to

EPA a certification that any funds expended in the performance of the SEP have not been deducted from federal taxes or capitalized into inventory or basis.

38. 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.

39. 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.

E. DISPUTE RESOLUTION

40. The dispute resolution procedures of Paragraphs 41-44 shall be the exclusive mechanism to resolve disputes arising under or with respect to Attachments 1 and 2 of this CAFO, including stipulated penalties relating to Attachments 1 and 2. However, such procedures shall not apply to actions by EPA to enforce obligations of Respondent that have not been disputed in accordance with these procedures.

41. Informal Dispute Resolution: Any dispute subject to dispute resolution under this CAFO shall first be the subject of informal negotiations. The dispute shall be considered to have arisen when Respondent provides written notice to EPA describing the nature of the dispute and requesting informal negotiations to resolve it. The period of informal negotiations shall not exceed twenty (20) days beyond the date that EPA receives Respondent's written notice unless

EPA and Respondent agree in writing to a longer period. If the parties cannot resolve a dispute by informal negotiations, then the position advanced by EPA shall be considered binding unless, within fifteen (15) days after the conclusion of the informal negotiation period, Respondent invokes formal dispute resolution procedures as set forth below.

42. Formal Dispute Resolution: Respondent shall invoke formal dispute resolution procedures, within the time period provided in the preceding Paragraph, by providing written notice to EPA containing a statement of position regarding the matter in dispute. The statement of position shall include, but may not be limited to, any factual data, analysis, or opinion supporting Respondent's position and any supporting documentation relied upon by Respondent. Following receipt of Respondent's statement of position submitted pursuant to this Paragraph, EPA will serve on Respondent its statement of position. EPA's statement of position shall include, but may not be limited to, any factual data, analysis, or opinion supporting EPA's position and any supporting documentation relied upon by EPA.

43. Following receipt of the statements of position submitted by Respondent and EPA pursuant to Paragraph 42, the Director of the Office of Environmental Stewardship ("OES Director"), EPA Region 1, will issue a determination resolving the dispute. The determination of the OES Director shall be final. The parties to this CAFO each reserve any rights they may have under applicable law with respect to any appeal from the determination of the OES Director.

44. The invocation of dispute resolution procedures under this CAFO shall not extend, postpone, or affect any obligation of Respondent under this CAFO not directly in dispute, unless the final resolution of the dispute so dictates. Stipulated penalties with respect to the disputed matter shall continue to accrue from the first day of nonperformance, but payment shall be stayed pending resolution of the dispute as provided in this CAFO. If Respondent does not prevail on the

disputed issue, stipulated penalties shall be assessed and paid as provided in Paragraph 21, or 32, above, as applicable.

F. REPORTING

45. For each requirement of this CAFO, including Attachments 1 and 2, Respondent shall maintain legible copies of the documentation and data, including but not limited to invoices, records of training and walk-throughs, and copies of posters or other signage, referenced by or supporting statements made in any documents or reports submitted to EPA pursuant to this CAFO until such time that EPA accepts the final report on implementation of the Attachment 1 measures, as provided in Paragraph 20(c), or until such time that EPA accepts the SEP Completion Report, as provided in Paragraph 31, respectively. Respondent shall provide the documentation and data to EPA within 14 days of a request for such information. In all Attachment 1 or 2-related documents or reports submitted to EPA pursuant to this CAFO, Respondent shall, by one of its officers, sign and certify under penalty of law that the information contained in such document or report is true, accurate, and not misleading by signing the following statement:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision 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, the information 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.

46. Respondent shall submit to EPA the following periodic reports for the activities undertaken under this CAFO, including Attachments 1 and 2.

a. Within 120 days after the effective date of this CAFO, Respondent shall submit an initial report to EPA describing the actions taken to that date to implement the Attachment 1 and 2 measures;

b. Within 270 days after the effective date of this CAFO, Respondent shall submit a report to EPA describing the actions taken to that date to implement the Attachment 1 and 2 measures;

c. Within fourteen months of the effective date of the CAFO, Respondent shall submit to EPA the following:

i. a final report describing the implementation of the Attachment 1 measures during the period following the commencement of implementation of the Attachment 1 measures; and

ii. for each SEP, a SEP Completion Report, which shall contain the following information:

(A) a detailed description of the SEP as implemented;

(B) a description of any SEP operating problems encountered and the solutions thereto;

(C) itemized SEP costs, documented by copies of purchase orders and receipts or cancelled checks or other written evidence, including internally generated cost allocation documents. The allowable SEP costs incurred by Respondent's employees include fully-loaded costs related to (1) the employee(s) implementing the SEP, including but not limited to developing and disseminating the training materials required under the CAFO, (2) employee(s) conducting training for other personnel, and (3) the employee(s) being trained under the SEP. Respondent shall be entitled to report and claim expenditure credit provided that the measures, and expenditures associated therewith, were incurred on or after April 21, 2011. To the extent that Respondent seeks to claim that any information to be submitted is Confidential Business Information, Respondent shall comply with requirements of 40 C.F.R. Part 2, Subpart B in any submittal of such information.

(D) certification that the SEP has been fully implemented (subject to ongoing maintenance) pursuant to the provisions of this CAFO; and

(E) a description of the estimated environmental and public health benefits resulting from implementation of the SEP (with a quantification of the benefits and pollutant reductions, if feasible) using Respondent's calculations based on manufacturer's estimates, or, if such estimates are unavailable, other readily available information.

G. AUTHORIZATION

47. 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.

In the Matter of Durham School Services Docket No. CAA-01-2011-0127

Consent Agreement and Final Order

DURHAM SCHOOL SERVICES, L.P.

By: Durham Holding II, L.L.C.
Its General Partner

Name John Harvey Date 3/13/12
Title CFO