

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2**

In the Matter of:

Tarrytown Boat and Yacht Club
236 Green Street
Tarrytown, New York 10533

RESPONDENT

Proceeding pursuant to Section 309(g) of the
Clean Water Act, 33 U.S.C. §1319(g)

**CONSENT AGREEMENT
AND FINAL ORDER**

**DOCKET NUMBER
CWA-02-2013-3307**

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2013 SEP -4 A 10:06
REGIONAL HEARING
CLERK

I. PRELIMINARY STATEMENT

1. This is a civil administrative proceeding for the assessment of a civil penalty instituted pursuant to Section 309(g) of the Clean Water Act ("CWA" or "the Act"), 33 U.S.C. §1319(g).
2. The following Findings of Fact are made and Order issued pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA") by the Act, 33 U.S.C. §1251 *et. seq.*, which authority has been duly delegated to the Regional Administrator of Region 2, EPA and since further re-delegated to the Director, Division of Enforcement and Compliance Assistance, Region 2, EPA.
3. EPA is initiating and concluding this proceeding for the assessment of a civil penalty, pursuant to Section 309(g) of the Clean Water Act, 33 U.S.C. §1319(g), and 40 CFR §22.13(b) of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits" (CROP), which sets forth procedures for simultaneous commencement and conclusion of administrative civil penalty assessment proceedings through issuance of a consent agreement and final order pursuant to 40 C.F.R. §22.18(b)(2) and (3).

II. FINDINGS OF FACT

4. Tarrytown Boat and Yacht Club (hereinafter, "Respondent") is a corporation, duly organized under the laws of the State of New York.
5. Respondent operated a facility located at 236 Green Street, Tarrytown, New York (the "facility") where the facility is primarily involved in the operation of a marina/yacht club.
6. At all times relevant to this Administrative Complaint, Respondent was a "source" within the meaning of Section 306(a)(3) of the Act, 33 U.S.C. §1316(a)(3).

7. EPA determined that Respondent has discharged stormwater associated with industrial activity from its facility directly to a navigable water of the United States (Hudson River), pursuant to Section 502(7) of the Act, 33 U.S.C. §1362(7).
8. The Respondent's Facility discharged stormwater runoff to Hudson River, as referenced in paragraph 7 above, without a State Pollutant Discharge Elimination System ("SPDES") General Permit for Stormwater Discharges Associated with Industrial Activity.

III. CONCLUSIONS OF LAW AND JURISDICTION

9. Section 301(a) of the Act, 33 U.S.C. §1311(a), provides, in part, that the discharge of any pollutants by any person from a point source to a navigable water of the United States shall be unlawful except, *inter alia*, in accordance with the terms and conditions of a duly issued permit pursuant to Section 402 of the Act, 33 U.S.C. §1342.
10. Section 402 of the Act, 33 U.S.C. §1342, authorizes the Administrator of EPA to issue a National Pollutant Discharge Elimination System ("NPDES") permit for the discharge of any pollutant, or combination of pollutants, subject to certain requirements of the Act and conditions which the Administrator determines are necessary.
11. Pursuant to Section 402(b) of the Act, 33 U.S.C. §1342(b), EPA granted authority to the New York State Department of Environmental Conservation ("NYSDEC") to issue State Pollutant Discharge Elimination System ("SPDES") permits to facilities in New York State for the discharge of pollutants from said facilities from a point source to a navigable water of the United States.
12. Section 402(p) of the CWA, 33 U.S.C. §1342(p) sets forth the requirements for the discharges of stormwater.
13. The terms "Industrial Stormwater Permit", "Multi Sector General Stormwater Permit" or "MSGP" mean the NYSDEC SPDES Multi-Sector General Permit ("MSGP") Permit for Stormwater Discharges Associated with Industrial Activity (GP-0-12-001) and/or the previous interim Industrial Stormwater Permit (GP-0-11-009). The current MSGP (GP-0-12-001) was issued by the NYSDEC, became effective on October 1, 2012 and expires on September 30, 2017. GP-0-12-001 replaced GP-0-11-009, which became effective on March 28, 2012 and expired on September 30, 2012.
14. The Administrator of EPA has promulgated regulations, 40 CFR §122.26(a)(1)(ii) and §122.26(b)(14), which require operators to obtain a NPDES permit for stormwater discharges associated with industrial activity. The regulations at 40 CFR §122.26(b)(14) establish requirements for stormwater discharges associated with industrial activity.
15. Respondent has conducted industrial activity under SIC Code 4493 and therefore is regulated under 40 CFR 122.26 and the NYSDEC MSGP.

