

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII
901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66101

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ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

IN THE MATTER OF:)

Parker-Hannifin Corporation)
d/b/a Jefferson Products Company)
711 Industrial Avenue)
Washington, Missouri 63090)
Respondent.)

Proceeding under Section 309(a)(3))
of the Clean Water Act, as amended,)
33 U.S.C. § 1319(a)(3))
_____)

FINDINGS OF VIOLATION AND
ORDER FOR COMPLIANCE
ON CONSENT

Docket No. CWA-07-2006-0219

STATUTORY AUTHORITY

1. The following Findings of Violation are made and Order for Compliance on Consent is issued pursuant to the authority vested in the Administrator of the Environmental Protection Agency ("EPA") by Section 309(a)(3) of the Clean Water Act ("Act"), 33 U.S.C. § 1319(a)(3), which authority has been delegated by the Administrator to the Regional Administrator of EPA, Region VII, and further delegated to the Director, Water, Wetlands and Pesticides Division.

2. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits discharge of pollutants from a point source into navigable waters of the United States, except in compliance with, inter alia, Sections 307 and 402 of the CWA, 33 U.S.C. §§ 1317 and 1342. Section 402 provides that pollutants may be discharged into navigable waters of the United States only in accordance with the terms of a National Pollutant Discharge Elimination System ("NPDES") permit issued pursuant to that section. Section 307 provides for the promulgation of regulations establishing pretreatment standards for introduction of pollutants into publicly owned treatment works ("POTW").

3. Pursuant to Section 307(b) of the CWA, 33 U.S.C. § 1317(a), EPA promulgated regulations at 40 C.F.R. Part 403 establishing the General Pretreatment Regulations and at 40 C.F.R. Parts 405 through 471 establishing the Point Source Categorical Standards. These regulations and standards are designed to regulate the introduction into POTWs of pollutants which are determined not to be amenable to treatment by such treatment works or which could interfere with the operation of such treatment works.

4. The Missouri Department of Natural Resources ("MDNR") is the state agency with the authority to administer the federal NPDES program in Missouri pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, implementing regulations, and a Memorandum of Understanding dated October 30, 1974. MDNR is also the state agency with the authority to administer the Pretreatment Program in Missouri pursuant to Section 402 of the CWA, implementing regulations, and a Memorandum of Understanding dated June 3, 1981. As such, MDNR is the Approval Authority as defined by 40 C.F.R. § 403.3(c). EPA maintains concurrent enforcement authority with authorized state NPDES and Pretreatment Programs for violations of NPDES permits and Pretreatment Program requirements.

CONSENT AGREEMENT

5. EPA and Respondent, having determined that settlement of this matter is in the best interest of both parties, come now and enter into this Findings of Violation and Order for Compliance on Consent (hereafter "Consent Order for Compliance").

6. EPA and Respondent agree to bear their respective costs and attorney's fees associate with this Consent Order for Compliance.

7. Respondent admits the jurisdictional allegations of this Consent Order for Compliance and agrees not to contest EPA's jurisdiction in this proceeding or any subsequent proceeding to enforce the terms of this Consent Order for Compliance.

8. Respondent neither admits nor denies the factual allegations and legal conclusions set forth in this Consent Order for Compliance.

9. Each signatory below certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Order for Compliance.

BACKGROUND

10. The City of Washington, Missouri (hereafter "City") owns and operates a POTW in Franklin County, Missouri.

11. The City developed a POTW Pretreatment program, pursuant to 40 C.F.R. § 403.8. The MDNR approved the City's POTW Pretreatment program on or about July 16, 1984.

12. The City's POTW is a "point source" that "discharges pollutants" to the Missouri River, which is considered "navigable waters of the United States," respectively as defined within Section 502 of the CWA, 33 U.S.C. § 1362.

13. On or about July 28, 2000, NPDES Permit No. MO-0025810 (hereafter, "NPDES permit"), was issued to the City by the MDNR pursuant to Section 402 of the CWA, 33 U.S.C. § 1342. The NPDES permit contains limitations for discharges of effluent from the POTW to

waters of the United States. Also contained in the Permit is the requirement under Section C. Special Conditions, Paragraph 10, for the City to "implement and enforce its approved pretreatment program in accordance with the requirements of 40 CFR Part 403."

14. The City is required by 40 CFR § 403.8(f)(1)(iii) to:

... [c]ontrol through permit, order of similar means, the contribution to the POTW by each Industrial User to ensure compliance with applicable Pretreatment Standards and Requirements, In the case of Industrial Users identified as significant under 40 CFR 403.3(t), this control shall be achieved through permits or individual control mechanisms issued to each such user.

15. The term Significant Industrial User is defined at 40 CFR § 403.3(t) to include, in pertinent part, "all industrial users subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter I, Subpart N."

16. Respondent is an Ohio corporation, registered and licensed to do business in the State of Missouri. Respondent's registered agent for service in Missouri is The Corporation Company, 120 South Central Avenue, Clayton, Missouri 63105.

17. Respondent owns and operates a manufacturing facility located at 711 Industrial Avenue, Washington, Missouri ("Facility"), at which Respondent performs copper and nickel electroplating in the process of manufacturing components for refrigeration and air conditioning equipment.

18. The Facility was previously owned and operated by Jefferson Products Company, which merged with, and operated under the name of, Sporlan Valve Company in approximately October 2004. Respondent Parker-Hannifin Corporation acquired Sporlan Valve Company in approximately October 2004. The Facility has retained the name "Jefferson Products Company" on the building.

19. Respondent is a "person" within the meaning of Section 502(5) of the CWA, 33 U.S.C. § 1362(5).

20. Respondent discharges wastewater from its manufacturing facility into the City's POTW, and is therefore an "Industrial User" as defined at 40 C.F.R. § 403.3(t).

21. Electroplating is a regulated process under the federal Categorical Standards as defined by the General Pretreatment Regulations at 40 C.F.R. § 403.6.

22. Respondent is subject to the General Pretreatment Regulations at 40 C.F.R. Part 403 and the Metal Finishing Point Source Category Pretreatment Standards at 40 C.F.R. Part 433. Therefore, Respondent is a Significant Industrial User as defined by 40 CFR § 403.3(t).

23. The City, pursuant to requirements of 40 CFR § 403.8(f)(1)(iii), issued to Respondent a Pretreatment discharge permit (hereafter "Pretreatment permit") on or around January 31, 1997, with an expiration date of December 31, 2000. The Pretreatment permit was administratively extended by letter on or around May 29, 2003.

24. Part 1, Subsection A. authorizes Respondent to discharge process wastewater to the City of Washington sewer system from Outfall 001.

25. Part 1, Subsection B. of Respondent's Pretreatment permit prescribes daily maximum and monthly average effluent limitations for Respondent's discharge from Outfall 001 for certain pollutants, including, but not limited to, copper, nickel, zinc, cyanide, and pH.

26. Part 2, Subsection A. of Respondent's Pretreatment permit establishes monitoring requirements for Respondent's discharge from Outfall 001. The monitoring requirements include sampling at least every 6 months of pollutant parameters limited by Part 1, Subsection B of the Pretreatment permit and continuous monitoring of flow from Outfall 001.

27. Part 5, Section 4., Additional Reporting Requirements, Subsection F. of Respondent's Pretreatment permit establishes reporting requirements for Operating Upsets. This section, in pertinent part, states:

Any permittee that experiences an upset in operations that places the permittee in a temporary state of noncompliance with the provisions of either this permit...shall inform the City of Washington within 24 hours of becoming aware of the upset...

A written follow-up report of the upset shall be filed by the permittee with the City of Washington within five days. The report shall specify:

1. Description of the upset, the cause(s) thereof and the upset's impact on the permittee's compliance status;

2. Duration of noncompliance, including exact dates and times of noncompliance, and if not corrected, the anticipated time the noncompliance is expected to continue; and

3. All steps taken or to be taken to reduce, eliminate and prevent recurrence of such an upset.

The report must also demonstrate that the treatment facility was being operated in a prudent and workmanlike manner.

28. On or around February 2, 2005, EPA sent an information request to Respondent under Section 308 of the CWA, 33 U.S.C. § 1318(a), seeking information regarding Pretreatment practices and documents for Respondent's wastewater treatment system, including, among other things, discharge monitoring reports, wastewater treatment system operator logs, and supporting information, and all notices to the City regarding instances of noncompliance or upset conditions.

29. In March 2005, Respondent submitted two letters to EPA in response to the Information Request. Included within Respondent's response were Respondent's discharge monitoring reports to the City and operator logs for Respondent's wastewater treatment system.

FINDINGS OF VIOLATION

30. The facts stated above are incorporated herein by reference.

31. Operator logs submitted by Respondent to EPA in response to the Information Request identify treatment system upset on at least the following sixteen occasions from June 2001 through February 2003 (summarized in the Table below), which were also periods of discharge to the POTW:

Date	Comments from Operator Logs
June 21, 2001	The filter press ran all night, pumping low pH wastewater into city system.
August 20, 2001	A degreaser was dumped causing copper to be retained in the treatment system.
September 24, 2001	Floc is in suspension. "Monster looks like shit." Metal bearing floc is discharged to city.
November 5, 2001	Degreaser drained into system, keeping floc in suspension. Floc discharged to city.
November 6, 2001	Red floc in suspension, flowing over weirs and discharged to city.
November 15, 2001	Treatment system pumped down- untreated contents discharged to the city.
December 5, 2001	Multiple issues. "Monster looks like []."
December 6, 2001	Discharging partially treated wastewater.
December 19, 2001	Filter press ran all night discharging low pH water to city.
December 20, 2001	Filter press ran all night. "this is 5 th time this year"
January 25, 2002	Floc is red, sludge boiling. Clarifier looks bad. System upset. Floc discharged to city.
January 28, 2002	System upset,-floc is red. "looks bad"
February 5, 2002	Sludge boiling through baffles, discharging to city.
November 22, 2002	System upset. "monster is all [] up"
January 29, 2003	Sludge is rising over baffles and discharging to the city.
February 5, 2003	System upset. Monster milky white, discharging floc to city.

32. Respondent's operator logs, as identified in Paragraph 31, above, indicate daily flow meter readings for the discharge of wastewater from Respondent's Outfall 001 to the City's sewer system.

33. Meter readings from Respondent's operator logs for December 6 and 20, 2001 and February 5, 2002, as identified in the Table in Paragraph 30 above, are inconclusive regarding discharges from Outfall 001 on those dates. Meter readings from Respondent's operator logs indicate discharge flows from Outfall 001 on the remaining dates identified in Table in Paragraph 30 above.

34. During periods of treatment system upset, such as identified in Paragraph 31 above, the wastewater discharged from Respondent's facility to the City's POTW was untreated or under-treated and, more likely than not, violated the effluent limitations in Respondent's Pretreatment permit for some or all of the pollutants copper, nickel, and pH.

35. Respondent provided EPA no correspondence with the City reporting notice of any noncompliance and/or upset conditions as described in the operator logs.

36. Respondent's discharge of wastewater to the City of Washington sewer system during periods of treatment system upset, and Respondent's failure to report instances of violations, including instances of upset, to the City as required by its Pretreatment permit are violations of the Pretreatment permit and Section 307 of the CWA, 33 U.S.C. § 1317.

CONSENT ORDER FOR COMPLIANCE

37. Based on the forgoing FINDINGS OF VIOLATION and the authority of Section 309(a)(3) of the Act, 33 U.S.C. § 1319(a)(3), Respondent CONSENTS and is hereby ORDERED as follows:

a. Respondent shall perform an Environmental Compliance Audit at the Jefferson Products Company Facility in Washington, Missouri, in accordance with the provisions of Attachment A to this Consent Order for Compliance.

b. All submittals required pursuant to this Consent Order for Compliance and Attachment A shall conform to the signatory and certification requirements enumerated at 40 C.F.R. § 122.22.

c. Submissions required pursuant to Attachment A shall be sent by mail, unless otherwise approved in writing by EPA, to:

Paul T. Marshall, PE
Pretreatment Coordinator
U.S. Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66044

Phone: (913) 551-7419
Fax: (913) 551-9419
E-mail: marshall.paul@epa.gov.

GENERAL PROVISIONS

Effect of Compliance with the Terms of This Consent Order for Compliance

38. Compliance with the terms of this Consent Order for Compliance shall not relieve Respondent of liability for, or preclude EPA from initiating an enforcement action to recover, penalties for any violations of the CWA not addressed herein or by the Consent Agreement and Final Order for EPA Action Number CWA-07-2006-0219, or from seeking additional injunctive relief, pursuant to Section 309 of the CWA, 33 U.S.C. § 1319.

39. Nothing in this Consent Order for Compliance shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, state, and local laws and regulations and applicable permits.

40. This Consent Order for Compliance does not constitute a waiver or a modification of any requirements of the Clean Water Act, 33 U.S.C. § 1251 et. seq., all of which remain in full force and effect.

Access and Requests for Information

41. Nothing in this Consent Order for Compliance shall limit EPA's right to obtain access to, and/or to inspect Respondent's facility, and/or to request additional information from Respondent, pursuant to the authority of Section 308 of the CWA, 33 U.S.C. § 1318 and/or any other authority.

Headings and Severability

42. The headings in this Consent Order for Compliance are for convenience of reference only and shall not affect interpretation of this Consent Order for Compliance.

43. If any provision or authority of this Consent Order for Compliance, or the application of this Consent Order for Compliance to Respondent, is held by federal judicial authority to be invalid, the application to Respondent of the remainder of this Consent Order for Compliance shall remain in full force and effect and shall not be affected by such a holding.

Effective Date

44. The terms of this Consent Order for Compliance shall be effective and enforceable against Respondent upon its receipt of an executed copy of the Consent Order for Compliance.

Termination

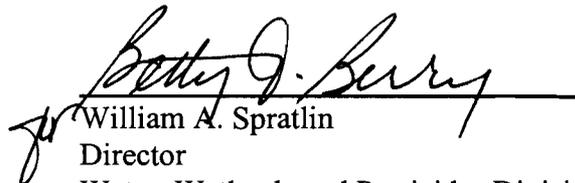
45. This Consent Order for Compliance shall remain in effect until a written notice of termination is issued by an authorized representative of the U.S. Environmental Protection

Agency. Such notice shall not be given until all of the requirements of this Consent Order for Compliance have been met.

46. Upon completion of all requirements under this Consent Order for Compliance, Respondent may petition EPA to terminate this Order. The determination to terminate the Consent Order for Compliance pursuant to Paragraph 45, above, shall not be unreasonably withheld or delayed by EPA. This Consent Order for Compliance shall be deemed terminated if EPA has made no written determination regarding Respondent's petition for Termination within 180 days of EPA's receipt of such petition.

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY:

Issued this 28th day of September, 2006.


William A. Spratlin
Director
Water, Wetlands and Pesticides Division


Patricia Gillispie Miller
Senior Assistant Regional Counsel

FOR RESPONDENT PARKER-HANNIFIN CORPORATION:



Signature

Thomas F. Healy

Printed Name

Corporate Vice President & President
Climate & Industrial Control Group

Title

9-26-06

Date

CERTIFICATE OF SERVICE

I certify that on the date noted below I sent by certified mail, return receipt requested, a true and correct copy of the original Finding of Violations and Order for Compliance on Consent to the agents for Parker-Hannifin Corporation, and the State of Missouri, as follows:

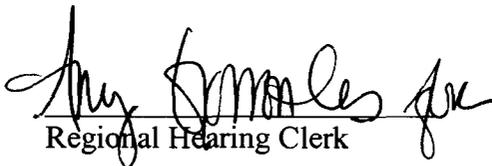
James M. Donchess
Assistant General Counsel
Parker-Hannifin Corporation
6035 Parkland Blvd.
Cleveland, Ohio 44124

Steven J. Poplawski
Bryan Cave LLP
One Metropolitan Square, Suite 3600
St. Louis, Missouri 63102-2750

Kevin Mohammadi
MDNR, Jefferson City Office

Mike Struckoff
MDNR, St. Louis Regional Office

Dated this 29 day of September, 2006.


Regional Hearing Clerk

APPENDIX A

ENVIRONMENTAL COMPLIANCE AUDIT - SCOPE OF WORK

In the Matter of: Parker-Hannifin Corporation d/b/a Jefferson Products Company
Washington, Missouri
Docket No. CWA-07-2006-0219

A. General Provisions

1. This Appendix provides for completion of an audit of the environmental compliance status of the Jefferson Products Company Facility owned and operated by Parker-Hannifin Corporation in Washington, Missouri (hereafter "Facility"). The audit shall be completed to determine and achieve compliance for processes identified in Paragraph A.3., below, with the federal environmental statutes and their implementing regulations listed in Paragraph A.4., below, as well as the state and local analogues thereto. EPA also encourages Respondent to use this audit process to identify, evaluate, and implement pollution reduction and pollution prevention practices.

2. Unless otherwise specified, terms used in this Appendix shall have the same meaning as defined in the Consent Order for Compliance, to which this Appendix is attached.

3. The audit shall evaluate all sources of wastewater within the Facility and the operations associated with treatment, disposal, or other fate of pollutants, chemicals, products, or wastes resulting from the Facility's wastewater treatment system, including, but not limited to, the Facility's:

- a. Uses of water within the Facility that result in wastewater streams;
- b. Internal processes, procedures, and practices for wastewater management within departments and between departments;
- c. Operating procedures and practices related to wastewater treatment;
- d. Generation, storage, handling, and disposal of solid or hazardous waste associated with the wastewater treatment system;
- e. Operation and maintenance practices for wastewater controls and for controls associated with any ancillary treatment processes, e.g., for waste sludges; and
- f. Monitoring, sample analysis, record keeping, and reporting procedures for wastewater and for any associated waste streams, e.g., waste sludges

4. The audit shall be designed to assess current regulatory compliance of the wastewater treatment system at the Facility, and generation, storage, handling and disposal of solid or hazardous waste associated with such wastewater treatment system, with the following statutes and their implementing regulations at the Facility:

- a. The Clean Water Act ("CWA"), 33 U.S.C. § 2801 et seq., as amended, specifically including, but not limited to, Pretreatment requirement under Section 307 of the CWA, 33 U.S.C. § 1317;

b. Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6901 et seq.; and

c. All other applicable state and local analogues of the federal statutes (and their implementing regulations) listed above, to the extent they apply to the wastewater treatment system at the Facility or generation, storage, handling and disposal of solid or hazardous waste generated by such wastewater treatment system.

5. The audit shall be conducted by an audit team composed of one or more qualified individuals who are independent of the Facility's management and supervisory control, and have been approved by EPA, as described below.

6. Any violations discovered pursuant to the audit are neither "voluntarily discovered" within the terms of EPA's revised Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations policy ("Audit Policy") nor voluntarily disclosed to EPA under EPA penalty policies. Accordingly, any such violations are ineligible for penalty mitigation or other favorable treatment under the Audit Policy. EPA, however, reserves its authority to use enforcement discretion in determining the appropriate enforcement response to the identification and correction of violations through the audit process. Respondent reserves the right to argue for mitigation of any proposed penalty independent of the applicability of the Audit Policy.

7. Respondent agrees not to attempt to use any state audit and/or privilege laws that would restrict EPA's ability to obtain, review, and/or use the Audit Report for the Facility to determine if the audit has been properly completed and Respondent has corrected any violations, as per its certification (see Paragraph F.5 below). Also, Respondent agrees not to attempt to use any state audit and/or privilege laws that would in any way restrict EPA's ability to obtain, review, and/or use the Audit Report in any action to enforce the audit provisions of the Consent Order for Compliance.

B. Audit Team

1. Respondent shall choose an audit team that meets the criteria as set forth in Paragraphs B.2. and B.3., below. Within 15 days of entry of the Consent Decree, Respondent shall notify EPA in writing of its audit team choice, including a description of the audit team members' qualifications, and the certification required by Paragraph B.3., below. EPA shall have 30 days to accept or reject Respondent's proposed audit team. If EPA does not provide written notice of its determination within 30 days, Respondent's proposed audit team shall be deemed acceptable to EPA. If EPA rejects the proposed audit team, it shall identify the reason(s) in writing to Respondent for such rejection, and Respondent shall propose one or more alternate audit team member(s) for EPA's approval not later than 30 days after receipt of notice of EPA's determination.

2. The members of the audit team shall be familiar with environmental auditing, with the laws and regulations in Paragraph A.4., above, and with state and local analogues relevant to the Facility.

3. Respondent shall, when proposing the audit team to EPA pursuant to Paragraph B.1., above, certify as to the audit team members' credentials to perform the audit and that the members of the audit team are not subject to supervision or control by any supervisor or manager associated with daily operations at the Facility.

C. Work Plan

Within 30 days of EPA's acceptance of Respondent's proposed audit team, Respondent shall submit a draft work plan ("Audit Work Plan") to EPA for its review and approval. The Audit Work Plan shall generally describe the process for conducting the audit and set out a schedule by which the processes comprising the audit will be performed at the Facility. EPA may reject the Audit Work Plan in whole or in part. If EPA rejects the Audit Work Plan or any portion of it, EPA shall identify the reason(s) in writing to Respondent for such rejection, and may, in its sole discretion, require Respondent to redraft the Audit Work Plan in its entirety or any rejected portion of it. If EPA does not provide written notice to Respondent of its determination within 30 days of Respondent's submission of the Audit Work Plan, or as applicable, the revised Audit Work Plan, Respondent's proposed Audit Work Plan shall be deemed approved by EPA. The Audit Work Plan approved by EPA shall be deemed incorporated into this Compliance Order on Consent and shall be enforceable hereunder.

D. Audit

1. Within 30 days of EPA's acceptance of the Audit Work Plan, Respondent shall ensure that the audit team commences the audit. The audit at the Facility shall be conducted in accordance with the approved Audit Work Plan.

2. Respondent shall take all appropriate measures to facilitate the audit team in performing the audit in accordance with the approved Audit Work Plan.

3. Respondent shall grant the audit team full access to, and unrestricted review of, all records, documents, and information that the audit team requires to complete the audit.

E. Imminent and Substantial Endangerment

Respondent shall immediately report to the appropriate local, state, and/or federal authorities any conditions identified in the Audit Report or discovered during the audit process, whether or not considered non-compliance, that may potentially pose an imminent or substantial endangerment to the health or welfare of persons or the environment. Respondent shall take immediate measures to correct any non-compliance causing such conditions and mitigate the endangerment. Respondent shall take appropriate and timely measures to correct and mitigate such conditions not caused by non-compliance.

F. Audit Report

1. Respondent shall submit the Audit Report to EPA within 30 days of completion of the audit.
2. The Audit Report shall contain:
 - a. A specific statement of the procedures followed and information consulted and evaluated during the audit;
 - b. A specific statement of all violations of federal and state environmental laws identified in Paragraph A.4, above, discovered during the audit;
 - c. The date(s) on which such violations commenced;
 - d. Recommendations on actions that may be necessary to achieve compliance with the federal and state environmental laws identified in Paragraph A.4, above; and
 - e. At Respondent's discretion, a discussion of any pollution reduction and/or pollution prevention opportunities associated with the wastewater treatment system and/or resulting wastewater sludges identified and practices implemented as a result of the audit.
3. Respondent may, pursuant to 40 C.F.R. § 2.203(a), assert a business confidentiality claim covering all or part of the information contained in the Audit Report in the manner described in 40 C.F.R. § 2.203(b) and to the extent authorized by 40 C.F.R. Part 2, Subpart B. However, neither information contained in the Audit Report, nor underlying information upon which the Audit Report relied, noting conditions that may constitute regulatory violations at the Facility, shall be claimed as confidential business information by Respondent.
4. Respondent shall expeditiously correct any violations identified in the Audit Report or otherwise discovered by Respondent through the audit process and shall provide confirmation of such corrections within the time frames identified in Paragraph 5 below.
5. Respondent shall provide the following information and certifications to EPA regarding completion of the audit and correction of any violations:
 - a. No later than 45 days after Respondent's submission of the Audit Report, Respondent shall submit to EPA a certification, by an authorized corporate official, stating that, to the best of the official's knowledge and information, the audit was conducted in accordance with the Work Plan described above, and that all violations identified in the Audit Report have been corrected or steps are being taken to correct them;

b. If any violations have not yet been remedied, because the remedy requires more time to implement, Respondent shall state when it believes compliance will be achieved; and

c. Respondent shall certify to EPA in writing when, to the best of its knowledge and information, correction of all such violations has been completed and full compliance achieved, but not later than 90 days from the date of the first certification, unless prior written approval is obtained from EPA to extend violation correction beyond this 90-day period, which approval shall not be unreasonably withheld.