

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

This form was originated by: Donna Mastro 4/6/12
Name of Contact person Date

in the R3 ORC

Non-SF Jud. Order/Consent Decree. DOJ COLLECTS

Administrative Order/ Consent Agreement FMD COLLECTS PAYMENT

SF Jud. Order/Consent Decree. FMD COLLECTS

This is an original debt

This is a modification

Name of Company making payment: DAG Realty, LLC 3830 Minnesota Ave
The Total Dollar Amount of Receivable: \$1400

(If in installments, attach schedule of amounts and respective due dates)

The Case Docket Number: CAA-3-2012-0128

The Site-Specific Superfund Acct. Number: _____

The Designated Regional/HQ Program Office SLAP/

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

The IFMS Accounts Receivable Control Number _____

If you have any questions call: _____
Name of Contact Date

in the Financial Management Office, phone number: _____

JUDICIAL ORDERS: Copies of this form with an attached copy of the front page of the final judicial order should be mailed to:

- | | |
|-----------------------------------|------------------------------|
| 1. Rosemarie Pacheco | 2. Originating Office (ORC) |
| Environmental Enforcement Section | 3. Designated Program Office |
| Lands Division, Room 130044 | |
| 1425 New York Avenue, N.W. | |
| Washington, D.C. 20005 | |

ADMINISTRATIVE ORDERS: Copies of this form with an attached copy of the front page of the administrative order should be sent to:

- | | |
|---------------------------|------------------------------|
| 1. Originating Office | 2. Designated Program Office |
| 3. Regional Hearing Clerk | |

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

REGIONAL HEARING CLERK
EPA REGION III, PHILA. PA

2012 APR 27 AM 7:15

RECEIVED

IN THE MATTER OF:

DAG Realty, LLC
d/b/a Minnesota Avenue Shell Gas Station
6820-B Commercial Drive
Springfield, Virginia 22151-4201

DOCKET NO. CAA-03-2012-0

Proceeding Under the Clean Air Act,
Section 113(a) and (d)

Respondent.

CONSENT AGREEMENT

I. Preliminary Statement

This administrative Consent Agreement (the "Consent Agreement") is entered into by and between the Complainant, the Director of the Air Protection Division, United States Environmental Protection Agency, Region III ("EPA" or "Complainant"), and the Respondent, DAG Realty, LLC (the "Respondent"), pursuant to Section 113(a) and (d) of the Clean Air Act ("CAA" or "the Act"), 42 U.S.C. § 7413(a) and (d), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 C.F.R. Part 22 (the "Consolidated Rules of Practice"). The Consolidated Rules of Practice at 40 C.F.R. § 22.13 provide, in pertinent part, that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be commenced and concluded simultaneously by the issuance of a consent agreement and final order pursuant to 40 C.F.R. § 22.18(b)(2) and (3).

This Consent Agreement and the accompanying Final Order (collectively referred to as the "CAFO") address alleged violations by Respondent at the gas station it owns and operates at **3830 Minnesota Avenue, NE, Washington, D.C. 20019** (the "Facility") of 40 C.F.R. Part 63, Subpart CCCCCC - National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Dispensing Facility ("Subpart CCCCCC") and of Sections 704 and 705 of the District of Columbia Municipal Regulations which contain the requirements for gas stations subject to the Stage I and Stage II Vapor Recovery Program. See 20 DCMR Ch. 7 Sections 704 and 705. Sections 704 and 705 of the District of Columbia Municipal Regulations are included in the

District of Columbia State Implementation Plan ("DC SIP") and are federally enforceable pursuant to Sections 110 and 113 of the Act, 42 U.S.C. §§ 7410 and 7413.

II. General Provisions

1. Section 113(a) and (d) of the Act, 42 U.S.C. § 7413(a) and (d), authorizes the Administrator of EPA to issue an administrative order assessing a civil administrative penalty whenever, on the basis of any information available to the Administrator, the Administrator finds that any person has violated, or is in violation of, any requirement, rule, plan, order, waiver, or permit promulgated, issued, or approved under Subchapters I, IV, V and VI [also referred to as Titles I, IV, V and VI] of the Act. The authority to issue the accompanying Final Order has been duly delegated to the Regional Judicial Officer, EPA Region III.
2. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order and agrees not to contest EPA's jurisdiction with respect to the issuance, execution and enforcement of this Consent Agreement and the accompanying Final Order.
3. Except as provided in paragraph 2 above, Respondent neither admits nor denies the specific findings of fact and the conclusions of law set forth in this Consent Agreement and the accompanying Final Order.
4. Respondent consents to the issuance of this Consent Agreement and the accompanying Final Order, agrees to comply with the terms and conditions set forth therein, and consents to the payment of a civil penalty as set forth in this CAFO.
5. Respondent agrees to pay its own costs and attorney fees.
6. Respondent agrees that this Consent Agreement and the accompanying Final Order shall apply to, and be binding upon, Respondent, its officers, directors, servants, employees, agents, successors and assigns.

III. Findings Of Fact And Conclusions Of Law

7. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3), EPA alleges the following findings of fact and conclusions of law:
8. Respondent is a limited liability company organized under the laws of the State of Delaware and doing business at **3830 Minnesota Avenue, NE, Washington, D.C. 20019**.
9. Respondent is a "person" as that term is defined in Section 302(e) of the Act, 42 U.S.C.

§ 7602(e), and within the meaning of Section 113(d) of the Act, 42 U.S.C. § 7413(d).

10. Respondent is the owner and operator of the Facility, the Minnesota Avenue Shell Gas Station, which is located at **3830 Minnesota Avenue, NE, Washington, D.C. 20019**.
11. The Facility constitutes a gasoline dispensing facility (“GDF”) with a monthly throughput greater than 50,000 gallons and therefore is subject to the requirements of the federal Stage I and Stage II Vapor Recovery Program or the appropriate approved State or local program (see Sections 182(b)(3) and 324(a) of the Act, 42 U.S.C. §§ 7511a(b)(3) and 7625(a), and Sections 704 and 705 of the District of Columbia Municipal Regulations which are federally enforceable as part of the approved DC SIP.
12. Sections 704 and 705 of the District of Columbia Municipal Regulations are federally enforceable as they have been incorporated into the DC SIP by EPA’s approval of the regulations as revisions to the DC SIP. See 64 Fed. Reg. 57777 (October 27, 1999). See also 42 U.S.C. § 7413(d)(1) and 40 C.F.R. §§ 52.23 and 52.470.
13. Subpart CCCCCC “establishes national emission limitations and management practices for hazardous air pollutants (HAP) emitted from the loading of gasoline storage tanks at gasoline dispensing facilities (GDF).” 40 C.F.R. § 63.11110.
14. Pursuant to 40 C.F.R. § 63.11111, Subpart CCCCCC applies to each GDF that is located at an area source. The affected source includes each gasoline cargo tank during the delivery of product to a GDF and also includes each storage tank. GDFs which have a monthly throughput of 10,000 gallons of gasoline or more must comply with the requirements in 40 C.F.R. § 63.11117.
15. Pursuant to Section 112(a) of the Act, 42 U.S.C. § 7412(a), a “major source” is a stationary source that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant (“HAP”) or 25 tons per year or more of any combination of HAPs. The term HAP means any air pollutant listed pursuant to Section 112(b) of the Act, 42 U.S.C. § 7412(b). An “area source” pursuant to Section 112(a) of the Act, 42 U.S.C. § 7412(a), means any stationary source of HAP that is not a major source.
16. The Facility is an area source of HAPs because it is a stationary source which emits benzene, toluene, ethylbenzene, xylene, and methyl tertiary butyl ether at levels below major source thresholds.
17. Pursuant to C.F.R. § 63.11132, the following definitions apply to Subpart CCCCCC:

“*Gasoline*” means any petroleum distillate or petroleum distillate/alcohol blend having a Reid vapor pressure of 27.6 kilopascals or greater, which is used as a fuel for internal combustion

engines.

“Gasoline dispensing facility (GDF)” means any stationary facility which dispenses gasoline into the fuel tank of a motor vehicle, motor vehicle engine, nonroad vehicle, or nonroad engine, including a nonroad vehicle or nonroad engine used solely for competition. These facilities include, but are not limited to, facilities that dispense gasoline into on- and off-road, street, or highway motor vehicles, lawn equipment, boats, test engines, landscaping equipment, generators, pumps, and other gasoline-fueled engines and equipment.

“Monthly throughput” means the total volume of gasoline that is loaded into, or dispensed from, all gasoline storage tanks at each GDF during a month. Monthly throughput is calculated by summing the volume of gasoline loaded into, or dispensed from, all gasoline storage tanks at each GDF during the current day, plus the total volume of gasoline loaded into, or dispensed from, all gasoline storage tanks at each GDF during the previous 364 days, and then dividing that sum by 12.

18. Existing GDFs subject to Subpart CCCCCC were required to comply with the standards in Subpart CCCCCC no later than January 10, 2011. See 40 C.F.R. § 63.11113(b).
19. Pursuant to 40 C.F.R. § 63.11116(a), GDFs must not allow gasoline to be handled in a manner that would result in vapor releases to the atmosphere for extended periods of time and must take the following measures:
 - (1) Minimize gasoline spills;
 - (2) Clean up spills as expeditiously as practicable;
 - (3) Cover all open gasoline containers and all gasoline storage tank fill-pipes with a gasketed seal when not in use; and
 - (4) Minimize gasoline sent to open waste collection systems that collect and transport gasoline to reclamation and recycling devices, such as oil/water separators.
20. Pursuant to 40 C.F.R. § 63.11116(b), GDFs must have records available within 24 hours of a request by the Administrator of EPA to document gasoline throughput.
21. Pursuant to 40 C.F.R. § 63.11117(a), GDFs with monthly throughput of 10,000 gallons of gasoline or more must comply with the requirements in 40 C.F.R. § 63.11116 as well as 40 C.F.R. § 63.11117.
22. Pursuant to 40 C.F.R. § 63.11117(b), GDFs with monthly throughput of 10,000 gallons or more must only load gasoline into storage tanks at the GDF by utilizing submerged filling, as defined in 40 C.F.R. §63.11132, and as specified in paragraphs (b)(1), (b)(2), or (b)(3). The applicable distances in paragraphs (b)(1) and (2) shall be measured from the point in the opening of the submerged fill pipe that is the greatest distance from the bottom of the storage

tank. Submerged fill pipes installed on or before November 9, 2006, must be no more than 12 inches from the bottom of the tank. 40 C.F.R. § 63.11117(b)(1). Submerged fill pipes installed after November 9, 2006, must be no more than 6 inches from the bottom of the tank. 40 C.F.R. § 63.11117(b)(2).

23. Pursuant to 40 C.F.R. § 63.11117(d), GDFs with monthly throughput of 10,000 gallons or more must have records available within 24 hours of a request by the Administrator of EPA to document gasoline throughput.
24. The Facility dispenses gasoline to fuel tanks of motor vehicles. The Facility is an existing GDF with a monthly throughput of gasoline greater than 10,000 gallons and was required to comply with Subpart CCCCCC by January 10, 2011.
25. On November 2, 2011, EPA conducted a compliance evaluation at the Facility to determine compliance with provisions of the CAA including Subpart CCCCCC and the DC SIP.
26. During the November 2, 2011 inspection, the EPA inspectors observed that the Facility had failed to minimize spills and had not cleaned up spills expeditiously in violation of 40 C.F.R. §§ 63.11116(a) and 63.11117(a) of Subpart CCCCCC and the Act.
27. During the November 2, 2011 inspection, the EPA inspectors also observed that the gasoline throughput information was not available in violation of 40 C.F.R. §§ 63.11116(b) and 63.11117(d) of Subpart CCCCCC and the Act.
28. Pursuant to Section 704.6 of the District of Columbia Municipal Regulations federally enforceable through the DC SIP, “[t]he operation or maintenance of any delivery vessel, or of any part of any liquid delivery system, or vapor collection or recovery system used or designed to be used in connection with the loading or unloading of the delivery vessel, shall be performed in a manner that is vapor-tight or in a manner so that there is no avoidable visible liquid leakage or liquid spillage.”
29. Pursuant to Section 705.1(c) of the District of Columbia Municipal Regulations federally enforceable through the DC SIP, the transfer of gasoline to any vehicular fuel tank from any stationary storage container is prohibited unless the transfer is made through a fill nozzle designed, operated, and maintained to prevent vehicular fuel tank overfills and spillage.
30. Pursuant to Section 705.9 of the District of Columbia Municipal Regulations federally enforceable through the DC SIP, “[t]he operator of a gasoline dispensing facility shall take the actions necessary to ensure that all parts of the system used at the facility for compliance with this section are maintained in good repair, and to ensure that any person, whether attendant, customer, or other, who uses the facility, does so in accordance with proper operating practices and otherwise in compliance with the requirements of §705.”

31. Pursuant to Section 705.10 of the District of Columbia Municipal Regulations federally enforceable through the DC SIP, "operator" "means any person who leases, operates, manages, supervises, or controls, directly or indirectly, a gasoline dispensing facility."
32. Pursuant to Section 705.12 of the District of Columbia Municipal Regulations federally enforceable through the DC SIP, "[a]ll vapor control systems (and components thereof) for the control of gasoline vapors resulting from motor vehicle fueling operations, including, but not limited to, vapor balance systems and vacuum assist systems, shall meet with the requirements for certification and shall be operated in accordance with the standards in effect on the effective date of the District of Columbia Air Pollution Control Act of 1984 as established by the State Fire Marshal for the State of California or the Division of Measurement Standards of the Department of Food and Agriculture of the State of California pursuant to §§ 41956-41958 of the Health and Safety Code of the State of California."
33. Respondent owns and operates the Facility which is a gasoline dispensing facility available to the general public and therefore subject to the "applicable requirements" of the Stage I and Stage II Vapor Recovery Program as defined in Sections 704 and 705 of the District of Columbia Municipal Regulations of the DC SIP. This Facility is equipped with a Stage II vacuum assist system. The Facility has underground storage tanks ("UST") and gasoline dispensing pumps.
34. At the time of the November 2, 2011 inspection, EPA inspectors observed the presence of liquid gasoline in the overfill portion under the blue colored cap of the "unleaded plus" gas UST and in the overfill portion under the orange colored UST cap which was next to the red colored "V-power" UST cap which is a violation of Section 704.6 of the District of Columbia Municipal Regulations of the DC SIP due to avoidable visible liquid leakage or liquid spillage at the USTs which are delivery vessels.
35. At the time of the November 2, 2011 inspection, EPA inspectors also observed the presence of gasoline and other liquids in the overfill portion under the white colored UST cap which was next to the orange colored UST cap which is a violation of Section 704.6 of the District of Columbia Municipal Regulations of the DC SIP due to avoidable visible liquid leakage or liquid spillage at the UST which is a delivery vessel.
36. At the time of the November 2, 2011 inspection, EPA inspectors observed sludge present in the overfill portion under the orange colored UST cap which was next to the white colored UST cap which is a violation of Section 704.6 of the District of Columbia Municipal Regulations of the DC SIP due to avoidable visible liquid leakage or liquid spillage at the UST.
37. At the time of the November 2, 2011 inspection, EPA inspectors observed no visible drainage valve to drain liquid in the overfill portion under the orange colored UST cap which was next

to the red colored "V-power" UST cap which is a violation of Section 704.6 of the District of Columbia Municipal Regulations of the DC SIP due to operation of delivery vessels or liquid delivery system in a manner which does not avoid visible liquid leakage or liquid spillage at the USTs.

38. At the time of the November 2, 2011 inspection, EPA inspectors observed no cap seal under the orange colored UST cap which was next to the red colored "V-power" UST cap which is a violation of Section 704.6 of the District of Columbia Municipal Regulations of the DC SIP due to operation of delivery vessels or liquid delivery system in a manner which is not vapor tight and which does not avoid visible liquid leakage or liquid spillage at the USTs.
39. Since November 2, 2011, Respondent is and has been operating its USTs as described in Paragraphs 34 through 38 in violation of Section 704.6 of the District of Columbia Municipal Regulations of the DC SIP as loading and unloading of the USTs was being performed in a manner that is not vapor-tight or in a manner so that there is not avoidable visible liquid leakage or liquid spillage.
40. Respondent's operation of the Facility in such a manner that is not vapor tight and does not prevent avoidable visible liquid leakage or liquid spillage during gasoline delivery into and out of USTs (delivery vessels) is a violation of Section 704.6 of the District of Columbia Municipal Regulations of the DC SIP, the Act, and 40 C.F.R. §52.23.
41. During the November 2, 2011 inspection, the EPA inspectors observed that no operator certification or test reports were available at the Facility as required by Sections 705.9 and 705.12 of the District of Columbia Municipal Regulations in violation of the DC SIP, the Act, and 40 C.F.R. § 52.23.

IV. Settlement Recitation, Settlement Conditions, and Civil Penalty

42. Respondent herein certifies to Complainant EPA that upon investigation, to the best of its knowledge and belief, all violations alleged in the Consent Agreement will be remedied in accordance with a checklist set forth in Enclosure #1 (Vapor Recovery Violation Checklist and Self-Certification Statement) of the Consent Agreement and Final Order within thirty (30) days of Respondent's initial receipt of this Consent Agreement.
43. Complainant and Respondent enter into this Consent Agreement and the accompanying Final Order in order to settle fully and resolve all violations set forth in Section III (Paragraphs 7 through 41) of this Consent Agreement.
44. In full and final settlement of the alleged violations enumerated above in Section III of this Consent Agreement, Respondent consents to the assessment and agrees to pay a civil penalty in the amount of One Thousand Four Hundred Dollars (\$1,400.00) within the time and manner

specified herein.

45. The settlement amount of One Thousand Four Hundred Dollars (\$1,400.00) is based upon Complainant's consideration of and application of the statutory penalty factors set forth in Section 113(e), of the Act, 42 U.S.C. § 7413(e), (which include the size of the business, economic impact of the penalty, the violator's full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence, the economic benefit of noncompliance, the payment of penalties previously assessed for same violation, the seriousness of violation and such other matters as justice may require), and EPA's Clean Air Act Stationary Source Civil Penalty Policy (dated October 25, 1991), as indexed for inflation in keeping with 40 C.F.R. Part 19 (Adjustment to Civil Monetary Penalties for Inflation). Complainant has determined that Respondent's payment of this civil penalty shall constitute full and final satisfaction of the violations set forth in Section III of this Consent Agreement.
46. Respondent shall pay the civil penalty of One Thousand Four Hundred Dollars (\$1,400.00) no later than thirty (30) days after the effective date of this Consent Agreement and accompanying Final Order in order to avoid the assessment of interest, administrative costs, and late payment penalties in connection with such civil penalty as described in this Consent Agreement and accompanying Final Order.
47. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. §13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment or to comply with the conditions in this Consent Agreement and Final Order shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.
48. Interest on the civil penalty assessed in this Consent Agreement and Final Order will begin to accrue on the date that a copy of this executed Consent Agreement and Final Order is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).
49. The cost of EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. §13.11(b). Pursuant to Appendix 2 of EPA's Resources Management Directives - Cash Management, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
50. A penalty charge of six percent per year will be assessed monthly on any portion of the civil

penalty which remains delinquent for more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

51. Thus, in accordance with the above provisions, to avoid the assessment of interest, late payment penalties, and handling charges on the penalty set forth herein, Respondent must pay the full amount of the civil penalty, in the manner directed, within thirty (30) days of the effective date of this Consent Agreement and accompanying Final Order.
52. Payment of the penalty in Paragraph 44 shall be made by cashier's check, certified check, or electronic wire transfer, Automated Clearing House ("ACH"), or an on line, internet payment as specified below. All payments are payable to Treasurer, United States of America and shall reference the above case caption and docket number (CAA-03-2012-0128).

All checks shall be made payable to Treasurer, United States of America and shall be mailed to the attention of:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P. O. Box 979077
St. Louis, MO 63197-9000
Contact: Heather Russell at (513) 487-2044.

Overnight deliveries shall be sent to:

U.S. Bank
Government Lockbox 979077
U.S. Environmental Protection Agency
Fines and Penalties
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

Contact: (314) 418-1028.

All electronic wire transfer payments shall be directed to:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street

New York NY 10045

Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"

Payments through ACH (also known as REX or remittance express) shall be directed to:

U.S Treasury REX/Cashlink ACH Receiver
ABA = 051036706
Account 310006, Environmental Protection Agency
CTX Format Transaction Code 22 - checking
33 Liberty Street
New York, N.Y. 10045

Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737

Contact: John Schmid, at 202-874-7026, or REX at 1-866-234-5681

An on-line, internet payment option, is also available through the United States Department of Treasury. This payment option can be accessed from www.pay.gov. Enter sfo 1.1 in the search field. Open form and complete required fields.

**Additional payment guidance is available at:
http://www.epa.gov/ocfo/finservices/make_a_payment.htm**

53. All payments made by check also shall reference the above case caption and docket number, **CAA-03-2012-0128**. At the same time that any payment is made, copies of any corresponding check or written notification confirming any electronic transfer through wire transfer, ACH, or internet payment shall be mailed to Lydia A. Guy, Regional Hearing Clerk (3RC00), U.S. EPA, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029, to Donna L. Mastro, Esq., Senior Assistant Regional Counsel (3RC10), U.S. EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103-2029, and to Mark Donovan (3AP20), U.S. EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103-2029.
54. Respondent agrees not to deduct for federal tax purposes the civil penalty specified in, and any civil penalty amount paid pursuant to, this Consent Agreement and accompanying Final Order.
55. Payment of the penalty specified in Paragraph 44 in the manner set forth in this Consent Agreement and payment of any applicable interest, handling costs and/or late payment charges

as set forth above shall constitute full and final satisfaction of all civil claims for penalties for the specific violations alleged in Section III of this Consent Agreement. Compliance with this Consent Agreement and accompanying Final Order shall not be a defense to any action commenced at any time for any other violation of any federal laws and regulations administered by EPA.

56. Respondent's failure to make timely payment of the civil penalty or any portion of the civil penalty provided herein may result in referral of this matter to the United States Attorney for enforcement of this Consent Agreement and the accompanying Final Order in the appropriate United States District Court. Additionally, Respondent's failure to make timely payment of the civil penalty or any portion of the civil penalty provided herein may result in the assessment of additional interest, penalties and/or late payment penalty charges.

V. Reservation of Rights

57. This Consent Agreement and the accompanying Final Order resolve only the civil claims for the specific violations alleged in Section III of this Consent Agreement. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. Nor shall anything in this Consent Agreement and Final Order be construed to limit the United States' authority to pursue criminal sanctions. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in 40 C.F.R. § 22.18(c). Further, Complainant reserves any rights and remedies available to it under the Act, the regulations promulgated thereunder, and any other federal laws or regulations for which Complainant has jurisdiction, to enforce the provisions of this Consent Agreement and accompanying Final Order following its filing with the Regional Hearing Clerk.

VI. Effective Date

58. The effective date of this Consent Agreement and the accompanying Final Order is the date on which the Consent Agreement and Final Order is filed with the Regional Hearing Clerk of EPA Region III.

VII. Waiver of Hearing

59. For the purposes of this proceeding only, Respondent hereby expressly waives its right to a hearing pursuant to Section 113(d)(2)(A) of the Act, 42 U.S.C. § 7413(d)(2)(A), with respect to any issue of law or fact set forth in this CAFO. Respondent also waives its right to appeal the accompanying Final Order.

VIII. Entire Agreement

60. This Consent Agreement and the accompanying Final Order constitute the entire agreement and understanding of the parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Consent Agreement and the accompanying Final Order. Nothing in this Consent Agreement or the accompanying Final Order shall be construed to affect or limit in any way the obligation of Respondent to comply with all federal, state and local laws and regulations governing any activity required by this Consent Agreement and the accompanying Final Order.

IX. Execution

61. The person signing this Consent Agreement on behalf of Respondent acknowledges and certifies by his/her signature that he/she is fully authorized to enter into this Consent Agreement and to legally bind Respondent, to the terms and conditions of this Consent Agreement and the accompanying Final Order.

For the Respondent:

4-3-12

Date

Megan Tingley
[name] Megan Tingley
DAG Realty, LLC

For the Complainant:

4-6-12

Date

Donna L. Mastro
Donna Mastro
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency, Region III

Accordingly, the Air Protection Division, United States Environmental Protection Agency, Region III, recommends that the Regional Administrator of EPA Region III or his designee, the Regional Judicial Officer, ratify this Consent Agreement and issue the accompanying Final Order. The amount of the recommended civil penalty assessment is One Thousand Four Hundred Dollars (\$1,400.00).

4-10-12
Date

Diana Esher
Diana Esher, Director
Air Protection Division
U.S. Environmental Protection Agency, Region III

7400 HILTON AVENUE
WASHINGTON DC 20011

ENCLOSURE 1

Stage I and II Vapor Recovery Checklist

Results from an EPA air compliance inspection show that your facility violated: 1) Sections 704 and 705 of Title 20 of the District of Columbia Municipal Regulations which contain the requirements for gasoline dispensing facilities subject to the Stage I and Stage II Vapor Recovery Program and 2) requirements of 40 C.F.R. Part 63 Subpart CCCCCC (referred to as "GACT standards"). 20 DCMR Sections 704 and 705 are part of the federally enforceable District of Columbia SIP. Below you will find a checklist indicating some important provisions from both 20 DCMR Sections 704 and 705 and the GACT standards.

EPA is requiring that you sign the self-certification located at the end of this checklist acknowledging that your facility has addressed compliance with 20 DCMR Sections 704 and 705 and with the GACT standards applicable to your gas dispensing facility.

Facility: 3240 HILTON AVENUE
Address: WASHINGTON DC 20011

Federal GACT Standards¹

If your gasoline throughput is < 10,000 gallons gasoline per month:

- Minimize gasoline spills/ clean up spills expeditiously
- Functional underground storage tank cap
- Liquid gasoline drained from sump of the gasoline underground storage tank
- Debris not present in underground storage tank sump drain
- Keep records of initial and every three year pressure test for Stage I vapor balance system
- Keep records of testing at station for at least 2 years and maintain off-site at least 5 years
- Have records available within 24 hours of request by EPA to document gasoline throughput

* If your gasoline throughput is ≥ 10,000 gallons per month and < 100,000 gallons per month:

- All of the requirements applicable with throughput < 10,000 gallons per month

¹ Applicable federal regulations may be found at 40 C.F.R. Part 63, Subpart CCCCCC – National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Dispensing Facilities beginning at 40 C.F.R. § 63.11110.

For storage tanks \geq 250 gallons capacity, load storage tank using submerged fill pipe that extends to no more than a) 12 inches from the tank bottom if installed on or before 11/9/2006 or b) 6 inches from the tank bottom if installed after 11/9/2006

If your gasoline throughput is \geq to 100,000 gallons per month:

All of the requirements applicable with gasoline throughput less than 100,000 gallons per month apply, plus.

Operation of an **appropriate** vapor balance system detailed in 40 CFR \S 63.11118

*** 20 DCMR Sections 704-705 Requirements**

- Functional underground storage tank cap
- Liquid gasoline drained from sump of the gasoline underground storage tank
- Debris not present in underground storage tank sump drain
- Maintain records of testing on-site
- Shrouds/covers at nozzles are not ripped, torn, or otherwise damaged
- At least one employee has certified Stage I/Stage II training to operate and maintain vapor recovery equipment
- Maintain records of operator certification on-site at all times
- Keep written daily inspection report/maintenance log on site at all times
- No kinked, cracked, or deformed pump hoses
- Functional emergency shutoff valve outside (accessible near pump area)
- Proper warning signs/stickers and emergency spill contact information present on each pump

Self-certification Statement

My facility has conducted an objective assessment of its compliance with the federally enforceable District of Columbia Stage I and Stage II Vapor Recovery Program requirements and with federal GACT standards in 40 C.F.R. Part 63, Subpart CCCCCC. Based on this assessment, I certify under penalty of law that, to the best of my knowledge and belief, the facility is in compliance with these applicable requirements.

Robert Buckley

Facility Owner

1100 1st St NE
Washington, DC 20002
Buckley Environmental Services, LLC

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

IN THE MATTER OF: :
 :
DAG Realty, LLC :
d/b/a Minnesota Avenue Shell Gas Station :
6820-B Commercial Drive : DOCKET NO. CAA-03-2012-0128
Springfield, Virginia 22151-4201 :
 :
 :
 :
Respondent. : Proceeding Under the Clean Air Act,
 : Section 113(a) and (d)


FINAL ORDER

The terms of the forgoing Consent Agreement are hereby accepted by the undersigned and incorporated into this Final Order.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT, pursuant to Section 113 of the Clean Air Act, 42 U.S.C. § 7413, and 40 C.F.R. § 22.18(b)(3) of the Consolidated Rules of Practice, Respondent, DAG Realty, LLC, is assessed a civil penalty of One Thousand Four Hundred Dollars (\$1,400.00).

The effective date of this Final Order is the date that it is filed with the Regional Hearing Clerk.

Date: 4/24/12


Renée Sarajian
Regional Judicial Officer
U.S. Environmental Protection Agency, Region III