



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

September 12, 2012

VIA HAND DELIVERY

Lydia Guy (3RC00)
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region III
1650 Arch Street
Philadelphia, PA 19103-2029

Re: Patuxent River Naval Air Station, Maryland;
Consent Agreement and Final Order;
Docket No. RCRA-03-2012-0124

Dear Ms. Guy,

Enclosed for filing please find one original and one copy of a Consent Agreement and Final Order, which, in accordance with Sections 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Sections 22.13(b) and 22.18(b)(2) and (3), both initiates and concludes this action. Please do not hesitate to contact me at (215) 814-2661 if you have any questions regarding this filing.

Sincerely,

A handwritten signature in cursive script, appearing to read "Elizabeth B. Lukens".

Elizabeth B. Lukens
Senior Assistant Regional Counsel (3RC42)

Enclosures: Docket No. RCRA 03-2012-0124

cc: Christine Tollefson, Esquire

26, Subtitle 13 were authorized by EPA effective July 31, 2001 and September 24, 2004. The provisions of the revised authorized program are enforceable by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

Effective July 30, 1992, pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991c, and 40 C.F.R. Part 281, Subpart A, the State of Maryland was granted final authorization to administer a state underground storage tank management program *in lieu* of the Federal underground storage tank management program. The provisions of the Maryland underground storage tank management program, through this final authorization, have become requirements of Subtitle I of RCRA and are, accordingly, enforceable by EPA pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e. Maryland's authorized underground storage tank program regulations are set forth in COMAR. Section 9006(a)-(d) of RCRA, 42 U.S.C. § 6991e(a)-(d), authorizes EPA: (a) to take an enforcement action whenever it is determined that a person is in violation of any requirement of RCRA Subtitle I, EPA's regulations thereunder, or any regulation of a state underground storage tank program which has been authorized by EPA; and (b) to assess a civil penalty against any person who violates any requirement of RCRA Subtitle I.

Respondent was previously notified regarding the RCRA allegations recited herein under cover letter dated August 8, 2011. In accordance with Sections 3008(a)(2) and 9006(a)(2) of RCRA, 42 U.S.C. §§ 6928(a)(2) and 6991e(a)(2), EPA has notified the Maryland Department of the Environment of EPA's intent to enter into a CAFO with Respondent resolving the RCRA violations set forth herein.

General Provisions

1. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
2. Respondent neither admits nor denies the specific factual allegations and conclusions of law set forth in this CAFO, except as provided in Paragraph 1, above.
3. Respondent agrees not to contest EPA's jurisdiction with respect to the execution of this CA, the issuance of the attached Final Order, or the enforcement of the CAFO.
4. For the purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and any right to appeal the accompanying Final Order, or any right to confer with the Administrator pursuant to RCRA Section 6001(b)(2), 42 U.S.C. § 6961(b)(2).
5. Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions.
6. Respondent shall bear its own costs and attorney's fees.

7. Respondent certifies to EPA by its signature herein that it is presently in compliance with the provisions of RCRA referenced herein.
8. The provisions of this CAFO shall be binding upon Complainant and Respondent, and any successors, assigns, or other entities or persons otherwise bound by law.
9. This CAFO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state or local law, or Executive Orders, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit; nor does this CAFO constitute a waiver, suspension or modification of the requirements of RCRA, Subtitle C, 42 U.S.C. §§ 6921- 6939e, RCRA, Subtitle I, 42 U.S.C. §§ 6991-6991i, or any regulations promulgated thereunder.

EPA's Findings of Fact and Conclusions of Law

10. In accordance with the Consolidated Rules at 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3), Complainant makes the findings of fact and conclusions of law which follow.
11. Respondent is the owner and operator of the facility located at 22268 Cedar Point Road, Patuxent River, Maryland (the "Facility").
12. EPA conducted an inspection of Respondent's Facility on June 9 – 12, 2008 ("EPA Inspection").

COUNT I (RCRA SUBTITLE C - FAILURE TO MAKE A WASTE DETERMINATION)

13. Paragraphs 1 through 12 of this CAFO are incorporated by reference as though fully set forth herein.
14. Respondent is a department, agency and/or instrumentality of the United States and is a "person" as defined by RCRA Section 1004(15), 42 U.S.C. § 6903(15), and COMAR 26.13.01.03B(61).
15. Respondent is, and has been through the period of the violations alleged herein, the "owner" and "operator" of a "facility" as these terms are defined by COMAR 26.13.01.03B(23), (58) and (59).
16. Respondent is, and has been through the period of the violations alleged herein, a "generator" of, and has engaged in the "storage" of, materials that are "solid wastes" and "hazardous waste" at the Facility as those terms are defined by COMAR 26.13.01.03B(29), (31), (73) and (76).
17. Respondent is and, at all times relevant to the violations in this CAFO, has been a large quantity generator who generates hazardous waste in an amount greater than 1,000 kilograms per month at the Facility.

18. COMAR 26.13.03.02A requires a person who generates a solid waste to determine whether that waste is a hazardous waste in accordance with the method therein described.
19. At the time of the EPA inspection, the EPA inspector observed the following:
 - a. A filter crushing unit was in operation at Building 534 (Public Works Transportation). On information and belief, the Facility uses this unit to crush used oil filters, and, on occasion, they also use it to crush gasoline filters. All residual fluids removed through the crushing process are collected in the same container and then transferred to the used oil tank outside of the building. On information and belief, the fluids are disposed off-site as used oil. These fluids are a solid waste as defined in COMAR 26.13.02.02. The Facility did not properly determine whether the fluids removed through the crushing process and collected in the container were hazardous wastes.
20. Respondent violated COMAR 26.13.03.02A by failing to determine if the solid wastes described in Paragraph 19, above, were hazardous wastes.

COUNT II (RCRA SUBTITLE C – AISLE SPACE BETWEEN CONTAINERS)

21. Paragraphs 1 through 20 of this CAFO are incorporated by reference as though fully set forth herein.
22. COMAR 26.13.05.03F requires that the owner or operator of a facility shall maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency.
23. At the time of the EPA inspection, the EPA inspector observed the following:
 - a. Fifty-nine (59) metal drums (55 gallons each) containing plastic blast media were stored in the Facility's Hazmat Warehouse (Building 653). On information and belief, the original intent was to recycle the material; however, in May 2008, the Facility declared the material a hazardous waste and labeled it as such. The drums were stored about six deep against one wall of the Facility; therefore, there was not adequate aisle space to permit access in the event of an emergency.
24. Respondent violated COMAR 26.13.05.03F by failing to maintain aisle space to allow for the unobstructed movement of personnel through the storage area, as described in Paragraph 23, above.

COUNT III (RCRA SUBTITLE C – WEEKLY INSPECTIONS)

25. Paragraphs 1 through 24 of this CAFO are incorporated by reference as though fully set forth herein.
26. COMAR 26.13.05.09E requires that the owner or operator of a facility shall inspect areas where containers are stored, at least weekly, looking for leaks and for deterioration of containers and the containment system caused by corrosion or other factors.
27. At the time of the EPA inspection, the EPA inspector observed the following:
 - a. Fifty-nine (59) metal drums (55 gallons each) containing plastic blast media were stored in the Facility's Hazmat Warehouse (Building 653). On information and belief, the original intent was to recycle the material; however, in May 2008, the Facility declared the material a hazardous waste and labeled it as such. On information and belief, since the waste was declared hazardous, weekly inspections have not been conducted of this space. Without such weekly inspections, the Facility could not ensure that the storage requirements were being properly carried out.
28. Respondent violated COMAR 26.13.05.09E by failing to perform weekly inspections of the storage area starting when the material was declared to be a hazardous waste in May 2008, as described in Paragraph 27, above.

COUNT IV (RCRA SUBTITLE C – ACCUMULATION START DATES)

29. Paragraphs 1 through 28 of this CAFO are incorporated by reference as though fully set forth herein.
30. COMAR 26.13.03.05E(1)(e) allows a generator to accumulate hazardous waste on-site without a permit or without holding interim status for 90 days or less only if the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container.
31. At the time of the EPA inspection, the EPA inspector observed the following:
 - a. At Building 8008 (Webster Field Annex), two metal storage lockers outside of this facility contained three 55-gallon drums filled with used paint filters. All three drums had hazardous waste labels, but one did not have the required accumulation start date.
 - b. In a storage locker near Building 8008, four 55-gallon drums were stored on a wooden pallet. The drums were marked with a hazardous waste label and accumulation start date, but were positioned such that the labels could not be read on two of the drums.

- c. At Building 653 (Hazmat Warehouse), fifty-nine (59) metal drums (55 gallons each) containing plastic blast media were stored in this facility. On information and belief, these drums were originally stored with the intent to recycle the material. In May 2008, the Facility declared the material a hazardous waste. The metal drums were labeled as such, but they were stored about six deep against one wall of the facility. Because of inadequate aisle space, it was not possible to see the labels on each of the drums.
32. Respondent violated COMAR 26.13.03.05E(1)(e) by failing to ensure that the accumulation start dates were clearly marked and visible for inspection on hazardous waste storage containers at the Facility, as described in Paragraph 31, above.

COUNT V (RCRA SUBTITLE C – MARKING CONTAINERS)

33. Paragraphs 1 through 32 of this CAFO are incorporated by reference as though fully set forth herein.
34. COMAR 26.13.03.05E(1)(f)(ii) allows a generator to accumulate hazardous waste on-site without a permit or without holding interim status for 90 days or less only if each container is labeled or marked clearly with the words "Hazardous Waste", while being accumulated on site.
35. At the time of the EPA inspection, the EPA inspector observed the following:
 - a. At Building 109 (Hangar), an outdoor storage locker was being used as a less-than- 90-day accumulation area. Inside this locker was a plastic Ziploc bag containing six glass vials that were being managed as hazardous waste. Although the bag had a date, it did not have a hazardous waste label.
 - b. At Building 307 (Fleet Readiness Center), two 55-gallon drums were connected to a blasting unit and partially filled with grit media and dust. Since the Facility had learned that the spent grit media could no longer be recycled, the Facility should have been managing the spent grit media and dust as hazardous waste. Neither drum was marked to identify that the contents were hazardous waste.
 - c. At Building 2186 (Aircraft Vehicle Modification and Instrumentation), two small blast units were observed in Room 104. Attached to the dust accumulation side of these units were two drums, approximately two to three gallons in size. The contents of these drums should have been managed as hazardous waste. Neither drum was marked to designate that the contents were a hazardous waste.
 - d. At Building 201 (VX-23 Strike), a cardboard box was observed in a satellite accumulation area in the east bay area of the building that held seven aerosol cans. The box was marked "empty" even though the cans contained some material. No other marking existed to indicate the presence of a hazardous

waste.

36. Respondent violated COMAR 26.13.03.05E(1)(f)(ii) by failing to clearly mark hazardous waste storage containers with the words "Hazardous Waste," as described in Paragraph 35, above.

COUNT VI (RCRA SUBTITLE C – ACCUMULATION AT THE POINT OF GENERATION)

37. Paragraphs 1 through 36 of this CAFO are incorporated by reference as though fully set forth herein.
38. COMAR 26.13.03.05E(3) allows a generator to accumulate as much as 55 gallons of hazardous waste in containers at or near any point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste.
39. At the time of the EPA inspection, the EPA inspector observed the following:
 - a. At Building 2360 (PSEF), two five-gallon containers were observed at a satellite accumulation area in Room 56. On information and belief, approximately once per week, the contents of these two containers are transferred to another satellite accumulation area in the building in Room 65A and placed into a 55-gallon drum. Accumulated waste should be under the control of the operator at or near the point of generation and not transferred to another satellite area in a remote location.
40. Respondent violated COMAR 26.13.03.05E(3) by failing to maintain wastes accumulated at a satellite accumulation area under the control of the operator of the process generating the waste at a location near the point of generation of the waste, as described in Paragraph 39, above.

COUNT VII (RCRA SUBTITLE C – OPEN CONTAINERS)

41. Paragraphs 1 through 40 of this CAFO are incorporated by reference as though fully set forth herein.
42. COMAR 26.13.05.09D requires that a container holding hazardous waste always be closed during storage, except when it is necessary to add or remove waste.
43. At the time of the EPA inspection, the EPA inspector observed the following:
 - a. At Building 2188 (Materials Lab), the satellite accumulation area in Room 201 contained a fiber drum marked as containing waste chromate paint. The

drum was open, but no waste was being added or removed.

- b. At Building 2360 (PSEF), the satellite accumulation area in Room 56 held two five-gallon containers marked as hazardous waste (flammable liquid). The opening on one of these containers was fitted with an open plastic funnel, but no waste was being added or removed.

- 44. Respondent violated COMAR 26.13.05.09D by leaving containers containing hazardous waste open when no waste was being added or removed, as described in Paragraph 43, above.

COUNT VIII (RCRA SUBTITLE C – ACCUMULATION TIME LIMITS)

- 45. Paragraphs 1 through 44 of this CAFO are incorporated by reference as though fully set forth herein.
- 46. COMAR 26.13.10.17B requires that universal waste be labeled to indicate the date that the universal waste became a waste or was received from another universal waste handler.
- 47. At the time of the EPA inspection, the EPA inspector observed the following:
 - a. At Building 305 (VX-1), two five-gallon plastic containers were marked as containing universal waste. One had the contents listed along with the date. The label on the other container appeared to have been marked in the same way, but all of the writing was removed from the label.
- 48. Respondent violated COMAR 26.13.10.17B by failing to maintain the label on universal waste, including the date that the universal waste became a waste or was received, as described in Paragraph 47, above.

COUNT IX (RCRA SUBTITLE I – RELEASE DETECTION)

- 49. Paragraphs 1 through 48 of this CAFO are incorporated by reference as though fully set forth herein.
- 50. Respondent is a department, agency and/or instrumentality of the United States and is a “person” as defined by Sections 1004(15) and 9001(5) of RCRA, 42 U.S.C. §§ 6903(15) and 6991(5), and as defined by COMAR 26.10.02.04B(43) and 26.13.01.03.B(61).
- 51. Respondent is, and was at all times relevant hereto, the “owner” and “operator” of underground storage tanks (“USTs”) as defined in COMAR 26.10.02.04B(40), (42), and (64), and Section 9001(3), (4), and (10) of RCRA, 42 U.S.C. § 6991(3), (4), and (10), at its Facility. At the time of the EPA Inspection, Respondent was the owner and/or operator of USTs in Building 612 (Base Fuel), including two USTs containing gasoline

and one containing diesel fuel, and the Navy Exchange, including three USTs containing gasoline.

52. Respondent's USTs at its Facility referenced above in Paragraph 51 are, and were at all times relevant hereto, "petroleum UST systems" used to store "regulated substances" as defined in COMAR 26.10.02.04B(46) and (50), and "petroleum" "USTs" used to store "regulated substances" as defined in Section 9001(1), (2) and (8) of RCRA, 42 U.S.C. § 6991(1), (2) and (8).
53. COMAR 26.10.05.01A requires that the owner and/or operator of petroleum UST systems must provide release detection for tanks and piping as described in the Maryland regulations.
54. At the time of the EPA inspection, the EPA inspector observed the following:
 - a. At the Navy Exchange, the leak detection probe in one of the three USTs was not properly positioned in the sump and was located on an angle. Leak detection equipment must be properly positioned to prevent unexpected releases to the environment.
55. Respondent violated COMAR 26.10.05.01A by failing to maintain the leak detection equipment on its UST in the proper position to function correctly to prevent unexpected releases to the environment, as described in Paragraph 54, above.

COUNT X (RCRA SUBTITLE I – SPILL/OVERFILL PREVENTION)

56. Paragraphs 1 through 55 of this CAFO are incorporated by reference as though fully set forth herein.
57. COMAR 26.10.04.01A requires owners and operators to ensure that releases due to spilling or overfilling do not occur.
58. COMAR 26.10.04.01B requires that overfill catchment basins be kept clean and dry.
59. COMAR 26.10.04.01C requires that, following each removal of a tank fill cap, the cap be secured on the fill pipe to prevent liquid or other matter from entering the UST.
60. At the time of the EPA inspection, the EPA inspector observed the following:
 - a. At the Navy Exchange filling station, the spill bucket around the fill pipe on the premium gasoline tank was full of water. In addition, the cover for the fill pipe/spill bucket was broken and the overfill valve was mounted too high. Effectively operating spill control devices are essential in preventing releases of product to the environment.

61. Respondent violated COMAR 26.10.04.01A, B and C by failing to properly maintain equipment to ensure that releases due to spilling or overfilling do not occur.

COUNT XI (RCRA SUBTITLE I – RELEASE DETECTION MONITORING RECORDS)

62. Paragraphs 1 through 61 of this CAFO are incorporated by reference as though fully set forth herein.
63. COMAR 26.10.05.06.B requires, in relevant part, that the results of any sampling, testing, or monitoring be maintained for at least one (1) year.
64. COMAR 26.10.04.05.C(4) requires, in relevant part, that the owner and operator maintain documentation of recent compliance with release detection requirements. In addition, COMAR 26.10.04.05.D(1)(a) requires, in relevant part, that the owner and/or operator must keep the required records at the UST site and immediately available for inspection by the implementing agency. In the alternative, pursuant to COMAR 26.10.04.05.D(1)(b), the records may be kept at a readily available alternative site and be provided upon request.
65. At the time of the EPA Inspection, at the Navy Exchange, the Facility did not have historical records from the Veeder Root system showing that the tanks are not leaking available for review by the EPA inspector. Failure to maintain adequate release detection records affects the ability of the Facility to determine leak detection issues and meet potential reporting requirements.
66. Respondent violated COMAR 26.10.05.06.B, COMAR 26.10.04.05.C(4), COMAR 26.10.04.05.D(1)(a), and COMAR 26.10.04.05.D(1)(b) by not having release detection records for the USTs at the Navy Exchange available for review.

CIVIL PENALTY

67. Respondent consents to the assessment of a civil penalty of **Thirty-Eight Thousand Five Hundred Dollars (\$38,500)** in full satisfaction of all claims for civil penalties for the violations alleged in the above eleven counts of this CAFO. Respondent must pay the civil penalty no later than **SIXTY (60)** calendar days after the effective date of this CAFO.
68. For the violations alleged in Counts I - VIII, EPA considered a number of factors including, but not limited to, the statutory factors set forth in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), *i.e.*, the seriousness of Respondent's violations and the good faith efforts by Respondent to comply with the applicable requirements of RCRA, and the *RCRA Civil Penalty Policy* (2003). EPA has also considered the *Adjustments of Civil Penalties for Inflation and Implementing the Debt Collection Improvement Act of*

1996 (“DCIA”), as set forth in 40 C.F.R. Part 19, and the December 29, 2008 memorandum by EPA Assistant Administrator Granta Y. Nakayama entitled, *Amendments to EPA’s Civil Penalty Policies to Implement the 2008 Civil Monetary Penalty Inflation Adjustment Rule (Effective January 12, 2009)* (“2008 Nakayama Memorandum”), which specify that for violations that occurred after January 30, 1997, statutory penalties and penalties under the RCRA Civil Penalty Policy for, *inter alia*, RCRA Subtitle C violations, were increased 10% above the maximum amount to account for inflation, and statutory penalties for, *inter alia*, RCRA Subtitle C violations that occurred after March 15, 2004 through January 12, 2009, were increased by an additional 17.23% above the maximum amount to account for inflation.

69. For the violations alleged in Counts IX – XI, EPA considered a number of factors, including, but not limited to: the statutory factors of the seriousness of Respondent’s violations and any good faith efforts by Respondent to comply with all applicable requirements as provided in RCRA Section 9006(d), 42 U.S.C. § 6991e(d), and EPA’s *Penalty Guidance for Violations of UST Regulations* (“UST Guidance”) dated November 4, 1990. EPA has also considered the DCIA, as set forth in 40 C.F.R. Part 19, and the 2008 Nakayama Memorandum, which specify that for violations that occurred after January 30, 1997, statutory penalties and penalties under the UST Guidance were increased 10% above the maximum amount to account for inflation, and statutory penalties for violations that occurred after March 15, 2004 through January 12, 2009, were increased by an additional 17.23% above the maximum amount to account for inflation.
70. Payment of the civil penalty amount required under the terms of Paragraph 67, above, shall be made by either cashier’s check, certified check or electronic wire transfer, in the following manner:
- a. All payments by Respondent shall reference its name and address and the Docket Number of this action (Docket No. RCRA-03-2012-0124);
 - b. All checks shall be made payable to “**United States Treasury;**”
 - c. All payments made by check and sent by regular mail shall be addressed and mailed to:

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

The Customer Service contact for the above method of payment is Heather Russell at 513-487-2044.

- d. All payments made by check and sent by overnight delivery service shall be addressed and sent to:

U.S. Bank
Government Lockbox 979077
U.S. EPA, Fines & Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

The Customer Service number for the above method of payment is 314-418-1028.

- e. 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"

- f. All payments through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX/Cashlink ACH Receiver
ABA = 051036706
Transaction Code 22 - checking
Account 310006, Environmental Protection Agency
CTX Format Transaction Code 22 - Checking

Physical location of U.S. Treasury Facility:

5700 Rivertech Court
Riverdale, MD 20737

The Customer Service contact for the above method of payment is Jesse White at 301-887-6548, or REX at 1-866-234-5681.

- g. There is an on-line payment option available through the Department of the Treasury. This payment option can be accessed from: WWW.PAY.GOV. Enter sfo 1.1 in the search field and complete all required fields in the form.

- h. At the same time that any payment is made, Respondent shall mail copies of any corresponding check, or written notification confirming any electronic wire transfer, to:

Ms. Lydia Guy
Regional Hearing Clerk (3RC00)
U.S. Environmental Protection Agency
Region III
1650 Arch Street
Philadelphia, PA 19103-2029

and to

Elizabeth B. Lukens (3RC44)
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency
Region III
1650 Arch Street
Philadelphia, PA 19103-2029

71. In accordance with 40 C.F.R. § 13.3, any debt owed to the EPA as a result of Respondent's failure to make timely payments in accordance with Paragraph 67 above, shall be resolved by negotiation between the EPA and Respondent or by referral to the General Accounting Office.

EFFECT OF SETTLEMENT

72. Payment of the penalty specified in Paragraph 67 above, in the manner set forth in Paragraph 70, above, shall constitute full and final satisfaction of all civil claims for penalties which Complainant may have under RCRA Subtitle C and RCRA Subtitle I for the specific violations alleged in Counts I - XI, above. Compliance with this CAFO shall not be a defense to any action commenced at any time for any other violation of the federal laws and regulations administered by EPA.

RESERVATION OF RIGHTS

73. This CAFO resolves only the civil claims for monetary penalties for the specific violations alleged in the CAFO. 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. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available

to it under RCRA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its filing with the Regional Hearing Clerk. Respondent reserves all available rights and defenses it may have to defend itself in any such action.

FULL AND FINAL SATISFACTION

74. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Sections 3008 and 9006 of RCRA, 42 U.S.C. §§ 6928 and 6991e, for the specific violations alleged in this CAFO. This CAFO constitutes the entire agreement and understanding of the parties regarding settlement of all claims pertaining to specific violations alleged herein, and there are no representations, warranties, covenants, terms, or conditions agreed upon between the parties other than those expressed in this CAFO.

ANTIDEFICIENCY ACT

75. Failure to obtain adequate funds or appropriations from Congress does not release Respondent from its obligation to comply with RCRA, the applicable regulations thereunder, or with this CAFO. Nothing in this CAFO shall be interpreted to require obligation or payment of funds in violation of the Antideficiency Act, 31 U.S.C. § 1341.

AUTHORITY TO BIND THE PARTIES

76. The undersigned representative of Respondent certifies that he or she is fully authorized by the Respondent to enter into the terms and conditions of this Consent Agreement and to bind the Respondent to it.

EFFECTIVE DATE

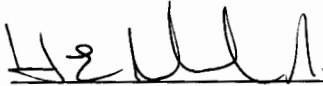
77. This CAFO shall become effective upon filing with the Regional Hearing Clerk.

In Re: Naval Air Station Patuxent River, Respondent, EPA Docket No. RCRA-03-2012-0124:

For Respondent:

The United States Department of the Navy

7 May 2012
Date



H.E. Mills
CAPT, U.S. NAVY
Commanding Officer
Naval Air Station, Patuxent River

For Complainant:

U.S. Environmental Protection Agency,
Region III

8/6/12
Date




Elizabeth B. Lukens
Senior Assistant Regional Counsel
U.S. EPA - Region III

Accordingly, I hereby recommend that the Regional Administrator or his designee, the Regional Judicial Officer, issue the Final Order attached hereto.

[signature block deleted]

8/23/12
Date



Abraham Ferdas, Director
Land and Chemicals Division
U.S. EPA - Region III

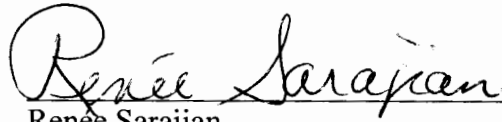
REGIONAL HEARING CLERK
EPA REGION III, PHILA. PA

2012 SEP 12 PM 2:03

RECEIVED

The effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

9/11/12
Date



Renee Sarajian
Regional Judicial Officer
U.S. Environmental Protection Agency

RECEIVED

2012 SEP 12 PM 2:03

REGIONAL HEARING CLERK
EPA REGION III, PHILA. PA

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

IN RE: :
 :
The United States Department of the Navy, :
 :
Respondent, :
 : **Docket No. RCRA-03-2012-0124**
Naval Air Station Patuxent River :
22268 Cedar Point Road :
Patuxent River, Maryland 20670-1154 :
 :
Facility. :

CERTIFICATE OF SERVICE

I certify that on the date noted below I sent a true and correct copy of the Consent Agreement and Final Order to the following:

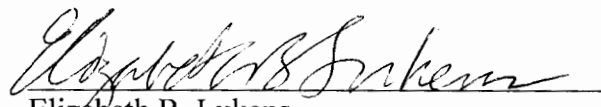
ORIGINAL AND ONE COPY FILED, VIA HAND DELIVERY

Lydia Guy
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region III
1650 Arch Street
Philadelphia, PA 19103

COPY SERVED, VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Christine Tollefson, Esquire
NAVFAC Washington
Office of Counsel
1314 Harwood Street, SE
Washington Navy Yard, DC 20374

Dated: September 12, 2012


Elizabeth B. Lukens
Senior Assistant Regional Counsel
U.S. EPA, Region III
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