

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

IN RE:

United States Postal Service,

Respondent,

Norfolk Vehicle Maintenance Facility
600 Church Street
Norfolk, Virginia 23501

Facility.

Docket No. RCRA/CWA-03-2010-0026

2010 Nov 19 11:12:06

CONSENT AGREEMENT

Preliminary Statement

This Consent Agreement (“CA”) is entered into by the Director of the Office of Enforcement, Compliance, and Environmental Justice, U.S. Environmental Protection Agency, Region III (“EPA” or “Complainant”) and the United States Postal Service (“USPS” or “Respondent”), pursuant to Sections 309 and 311 of the Clean Water Act (“CWA”), 33 U.S.C. §§ 1319 and 1321, and Sections 9006 and 9007 of the Resource Conservation and Recovery Act (“RCRA”), as amended, 42 U.S.C. §§ 6991e and 6991f, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules”), 40 C.F.R. Part 22, including, specifically 40 C.F.R. §§ 22.13(b) and .18(b)(2) and (3).

This CA and the accompanying Final Order (collectively “CAFO”) simultaneously commence and conclude an administrative proceeding against Respondent to resolve alleged violations of the CWA, RCRA, and the authorized Virginia underground storage tank regulations in connection with Respondent’s Norfolk Processing and Distribution Center, located in Norfolk, Virginia (the “Facility”).

RCRA Background

On September 28, 1998 (effective October 28, 1998) (63 Fed. Reg. 51528), pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991c, and 40 C.F.R. Part 281, Subpart A, the Commonwealth of Virginia was granted final authorization by EPA to administer a state underground storage tank management program *in lieu* of the Federal underground storage tank management program established under Subtitle I of RCRA, 42 U.S.C. §§ 6991-6991i. The provisions of the Commonwealth of Virginia 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. The provisions of the Commonwealth of Virginia's authorized underground storage tank program are cited as Underground Storage Tanks: Technical Standards and Corrective Action Requirements ("VA UST Regulations"), 9 VAC § 25-580-10 *et seq.*

Respondent was previously notified regarding the RCRA allegations recited herein under cover letter dated January 9, 2008. In accordance with Section 9006(a)(2) of RCRA, 42 U.S.C. § 6991e(a)(2), EPA has notified the Commonwealth of Virginia of EPA's intent to enter into a CAFO with Respondent resolving the RCRA violations set forth herein.

CWA Background

Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of "pollutants" from a point source within the meaning of Section 502(6) of the CWA, 33 U.S.C. § 1362(6), into the waters of the United States by any person except in accordance with certain sections of the CWA, or in compliance with, *inter alia*, a National Pollutant Discharge Elimination ("NPDES") permit issued by EPA or an authorized state pursuant to Section 402 of the CWA, 33 U.S.C. § 1342. Under Section 402(a) of the CWA, 33 U.S.C. § 1342(a), the Administrator of EPA may issue an NPDES permit that authorizes the discharge of pollutants into waters of the United States, subject to the conditions and limitations set forth in such permits, including effluent limitations, but only upon compliance with applicable requirements of Section 301 of the CWA, 33 U.S.C. § 1311, or under such other conditions as the Administrator determines are necessary to carry out the provisions of the CWA.

Section 402(k) of the CWA, 33 U.S.C. § 1342(k), provides that compliance with the terms and conditions of a permit issued pursuant to that section shall be deemed compliance with, *inter alia*, Section 301 of the CWA, 33 U.S.C. § 1311. Effluent limitations, as defined in Section 502(11) of the CWA, 33 U.S.C. § 1362(11), are restrictions on the quantity, rate, and concentration of chemical, physical, biological, and other constituents of wastewater discharges. Section 402(b) of the CWA, 33 U.S.C. § 1342(b), authorizes EPA to delegate permitting and inspection authority to States that meet certain requirements. Virginia is authorized by the Administrator of EPA, pursuant to Section 402(b) of the CWA, 33 U.S.C. § 1342(b), to administer the NPDES permit program for discharges into navigable waters within its jurisdiction. The Virginia Department of Environmental Quality ("VADEQ") is the "approval authority" as defined in 40 C.F.R. § 403.3.

Section 311(j)(1)(C) of the CWA, 33 U.S.C. § 1321(j)(1)(C), provides that the President shall issue regulations “establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil . . . from vessels and from onshore and offshore facilities, and to contain such discharges” 40 C.F.R. Part 112, which includes the Spill Prevention, Control and Countermeasure (“SPCC”) regulations and which implements Section 311(j) of the CWA, 33 U.S.C. § 1321(j), sets forth procedures, methods and requirements to prevent the discharge of oil from non-transportation-related facilities into or upon the navigable waters of the United States, within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7), and 40 C.F.R. § 110.1, and adjoining shorelines in such quantities that by regulation have been determined may be harmful to the public health or welfare or environment of the United States by owners or operators who are engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing or consuming oil or oil products. These regulations took effect on January 10, 1974. In promulgating 40 C.F.R. § 110.3, which implements Section 311(b)(4) of the CWA, 33 U.S.C. § 1321(b)(4), EPA has determined that discharges of harmful quantities include oil discharges that cause either (1) a violation of applicable water quality standards or (2) a film, sheen upon, or discoloration of the surface of the water or adjoining shorelines, or (3) a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines.

Pursuant to Section 309(g)(1)(A) of the CWA, 33 U.S.C. §§ 1319(g)(1)(A), EPA has consulted with the Commonwealth of Virginia regarding this action, and, in addition, will mail a copy of this document to the appropriate VADEQ official.

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.
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 and CWA referenced herein.

8. The provisions of this CAFO shall be binding upon Respondent, its officers, directors, employees, successors, and assigns.
9. This CAFO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state or local law, 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 the CWA or RCRA, 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 Norfolk Vehicle Maintenance Facility, 600 Church Street, Norfolk, Virginia 23501 (the "Facility").
12. EPA conducted a multi-media inspection of Respondent's Facility on August 3-4, 2005.

COUNT I (RCRA SUBTITLE I)

13. Paragraphs 1-12 of this CAFO are incorporated by reference as though fully set forth herein.
14. Respondent is an independent establishment of the executive branch of the Government of the United States (Sec 39 U.S.C. § 201) and is a "person" as defined by Section 9001(6) of RCRA, 42 U.S.C. § 6991(6).
15. Respondent is, and at the time of the violations alleged in this CAFO, was the "owner" and/or "operator" of five "underground storage tanks" ("USTs" and "UST systems"), as defined in Section 9001(1), (3), and (4) of RCRA, 42 U.S.C. § 6991(1), (3), and (4), and 9 VAC § 25-580-10, which are located outside of the Vehicle Maintenance Facility at the Facility. These tanks were identified by the Facility as Tanks 1, 2, 3, 4, and 5. Tank 1, a 10,000 gallon tank, was installed on September 1, 1991, and contained diesel at the time of the EPA inspection. Tank 2, a 10,000 gallon tank, was installed on September 1, 1991, and contained diesel at the time of the EPA inspection. Tank 3, a 10,000 gallon tank, was installed on September 1, 1991, and contained gasoline at the time of the EPA inspection. Tank 4, a 750 gallon tank, was installed on September 1, 1991, and contained used oil at the time of the EPA inspection. Tank 5, a 1,000 gallon tank, was installed on September 1, 1991, and contained used oil at the time of the EPA inspection.
16. Respondent's USTs referenced in Paragraph 15, above, are and were at all times relevant hereto "petroleum UST systems" used to store "regulated substances" as defined in 9 VAC 25-580-10, and Section 9001(2) of RCRA, 42 U.S.C. § 6991(2).

17. Pursuant to 9 VAC 25-580-130.A. and C., owners and operators of new and existing UST systems must provide a method or combination of methods of release detection monitoring that meets the requirements described herein.
18. 9 VAC § 25-580-140.2 provides, in pertinent part, that underground piping that routinely contains regulated substances must be monitored for releases in a manner that meets one of the following requirements:
 - a. Pressurized piping. Underground piping that conveys regulated substances under pressure must:
 - (1) Be equipped with an automatic line leak detector conducted in accordance with subdivision 1 of 9 VAC 25-580-170; and
 - (2) Have an annual line tightness test conducted in accordance with subdivision 2 of 9 VAC 25-580-170 or have monthly monitoring conducted in accordance with subdivision 3 of 9 VAC 25-580-170.
 - b. Suction piping. Underground piping that conveys regulated substances under suction must either have a line tightness test conducted at least every three years and in accordance with subdivision 2 of 9 VAC 25-580-170, or use a monthly monitoring method conducted in accordance with subdivision 3 of 9 VAC 25-580-170. No release detection is required for suction piping that is designed and constructed to meet the following standards:
 - (1) The below-grade piping operates at less than atmospheric pressure;
 - (2) The below-grade piping is sloped so that the contents of the pipe will drain back into the storage tank if the suction is released;
 - (3) Only one check valve is included in each suction line;
 - (4) The check valve is located directly below and as close as practical to the suction pump; and
 - (5) A method is provided that allows compliance with subdivisions 2 b (2) through (4) of this section to be readily determined.
19. At the time of the EPA inspection, the piping associated with Tanks 1, 2, and 3 was pressurized piping and the piping associated with Tanks 4 and 5 was suction piping.
20. At the time of the EPA inspection, Respondent was using interstitial monitoring as its leak detection method for the piping associated with Tanks 1, 2, 3, 4, and 5, in accordance with 9 VAC 25-580-170.3 (40 C.F.R. § 280.44(c)) and 9 VAC 25-580-160.7 (40 C.F.R. § 280.43(g)). At the time of the EPA inspection, Respondent was not using any other method of leak detection for the piping associated with Tanks 1, 2, 3, 4, and 5.
21. With respect to the piping associated with Tanks 1, 2, 3, 4, and 5, any leak from the interstitial space between piping walls was designed to flow to a sump. Each of these sumps associated with Tanks 1, 2, 3, 4, and 5 had a sump sensor to detect a leak from piping. At the time of the EPA inspection, each of the sump sensors associated with Tanks 1, 2, 3, 4, and 5 were improperly placed in the sumps as they were placed too high in relation to the bottom of the sump. Respondent's method of release detection was

inadequate because the sump sensors were placed too high in relation to the bottom of the sump and they could not function effectively to detect a leak.

22. At the time of the EPA inspection, Respondent was not properly conducting interstitial monitoring for the piping associated with Tanks 1, 2, 3, 4, and 5.
23. Respondent violated 9 VAC 25-580-140.2 (40 C.F.R. § 280.41) by failing to properly perform release detection for the piping associated with Tanks 1, 2, 3, 4, and 5 at the Facility.

COUNT II (CWA-STORMWATER)

24. Paragraphs 1-23 of this CAFO are incorporated by reference as though fully set forth herein.
25. By letter dated May 6, 2004, VADEQ informed the Facility that it was eligible for coverage under the Virginia Pollutant Discharge Elimination System ("VPDES") General Permit for Storm Water Discharges Associated with Industrial Activity ("General Permit"). The regulations pertaining to the General Permit can be found at 9 VAC 25-151-10 *et seq.* The General Permit's effective date was July 1, 2004, and its expiration date is June 30, 2009. VADEQ assigned permit number VAR050301 to the Facility ("Facility Permit"). At the time of the EPA inspection, the Facility Permit was in effect.
26. Section III of the Facility Permit, as dictated by 9 VAC 25-151-70 and 9 VAC 25-151-80, requires that Respondent prepare a Storm Water Pollution Prevention Plan ("SWPPP") for the permitted facility and the permittee is required to implement the SWPPP as a condition of the permit.
27. Section III of the Facility Permit sets forth specific requirements that must be incorporated into a SWPPP.
28. Section III.B.6.b.(1)(e) of the Facility Permit requires the Respondent to conduct routine facility inspections, no less than on a quarterly basis.
29. Section III.E. of the Facility Permit requires a comprehensive site compliance evaluation at least once a year.
30. For calendar year 2004, Respondent failed to conduct and/or document its quarterly routine inspections. Respondent's failure to conduct and/or document its routine quarterly inspections is a violation of 9 VAC 25-151-70 and 9 VAC 25-151-80.
31. For calendar year 2004, Respondent failed to conduct and/or document its annual comprehensive site evaluation. Respondent's failure to conduct and/or document its annual comprehensive site evaluation is a violation of 9 VAC 25-151-70 and 9 VAC 25-151-80.

32. The Facility's failure to implement the requirements of the General Permit, which are required by 9 VAC 25-151-70 and 9 VAC 25-151-80, constitutes a violation of Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311(a) and 1342.

COUNT III (CWA-SPCC)

33. Paragraphs 1-32 of this CAFO are incorporated by reference as though fully set forth herein.
34. Respondent is the owner and operator, within the meaning of Section 311(a)(6) of the CWA, 33 U.S.C. § 1321(a)(6), and 40 C.F.R. § 112.2, of an onshore facility. A discharge from the Facility could reasonably be expected to impact the Elizabeth River in a harmful quantity.
35. At the time of the EPA inspection, the Facility had an aggregate above-ground storage capacity greater than 1,320 gallons of oil in containers, each with a shell capacity of at least 55 gallons. Since the time of the EPA inspection, the Facility has reduced its oil storage capacity below the SPCC regulatory threshold.
36. The Elizabeth River is a navigable water of the United States, within the meaning of 40 C.F.R. § 112.2 and Section 502(7) of the CWA, 33 U.S.C. § 1362(7).
37. Respondent is engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing, using or consuming oil or oil products located at the Facility.
38. The Facility is a non-transportation-related facility within the meaning of 40 C.F.R. § 112.2, Appendix A, as incorporated by reference within 40 C.F.R. § 112.2.
39. The Facility is a non-transportation-related onshore facility which, due to its location, could reasonably be expected to discharge oil to a navigable water of the United States or its adjoining shorelines in a harmful quantity ("an SPCC-regulated facility").
40. Respondent began operating the Facility in the early 1980s.
41. Pursuant to the CWA and 40 C.F.R. § 112.1(b), at the time of the EPA inspection, Respondent, as the owner and operator of an SPCC-regulated facility, was subject to the SPCC regulations.
42. 40 C.F.R. § 112.7 requires the owner or operator of an SPCC-regulated facility to prepare an SPCC Plan which has full management approval at a level of authority to commit the necessary resources to fully implement the plan.
43. At the time of the EPA inspection, the Facility's SPCC Plan did not have full management approval at a level of authority to commit the necessary resources to fully

implement the plan.

44. Respondent violated 40 C.F.R. § 112.7 by failing to have full management approval for its SPCC Plan at a level of authority to commit the necessary resources to fully implement the plan at the time of the EPA inspection.

CIVIL PENALTY

45. Respondent consents to the assessment of a civil penalty of **FORTY ONE THOUSAND, FIVE HUNDRED AND FIFTY EIGHT DOLLARS (\$41,558.00)** in full satisfaction of all claims for civil penalties for the violations alleged in the above three counts of this CAFO. Respondent must pay the civil penalty no later than **SIXTY (60)** calendar days after the date on which this CAFO is mailed or hand-delivered to Respondent. In order to avoid the assessment of interest, administrative costs and late payment penalties in connection with such civil penalty, Respondent must pay the civil penalty no later than **SIXTY (60)** calendar days after the date on which this CAFO is mailed or hand-delivered to Respondent.
46. For the violation alleged in Count I, 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 *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 September 21, 2004 memorandum by Acting EPA Assistant Administrator Thomas V. Skinner entitled, *Modifications to EPA Penalty Policies to Implement the Civil Monetary Penalty Inflation Adjustment Rule* ("2004 Skinner Memorandum") which specify that for violations occurring 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 occurring after March 15, 2004, were increased by an additional 17.23% above the maximum amount to account for inflation.
47. For the violations alleged in Count II, EPA considered a number of factors including, but not limited to, the statutory factors set forth in Section 309(g) of the CWA, 33 U.S.C. § 1319(g), *i.e.*, the nature, circumstances, extent and gravity of the violation(s), Respondent's ability to pay, prior history of compliance, degree of culpability, economic benefit or savings resulting from the violations, and such other matters as justice may require. EPA considered the *Interim Clean Water Act Settlement Penalty Policy* (1995). EPA has also considered the DCIA, as set forth in 40 C.F.R. Part 19, and the 2004 Skinner Memorandum which specify that for violations occurring after January 30, 1997, statutory penalties and penalties under the Interim Clean Water Act Settlement Policy were increased 10% above the statutory maximum amount to account for inflation and statutory penalties for violations occurring after March 15, 2004, were increased by an

additional 17.23% above the maximum amount to account for inflation.

48. For the violation alleged in Count III, EPA considered the statutory penalty factors set forth at Section 311(b)(8) of the CWA, 33 U.S.C. § 1321(b)(8), *i.e.*, the seriousness of the violation or violations, the economic benefit to the violator, if any resulting from the violation, the degree of culpability involved, any other penalty for the same incident, any history of prior violations, the nature, extent, and degree of success of any efforts of the violator to minimize or mitigate the effects of the discharge, the economic impact of the penalty on the violator, and any other matters as justice may require. EPA considered the *Civil Penalty Policy for Section 311(b)(3) and Section 311(j) of the Clean Water Act* (1998). EPA has also considered the DCIA, as set forth in 40 C.F.R. Part 19, and the 2004 Skinner Memorandum which specify that for violations occurring after January 30, 1997, statutory penalties were increased 10% above the statutory maximum amount to account for inflation and statutory penalties for violations occurring after March 15, 2004, were increased by an additional 17.23% above the maximum amount to account for inflation.

49. Payment of the civil penalty amount of \$38,844.00 for Counts I and II, 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/CWA-03-2010-0026);
- 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 Natalie Pearson at 314-418-4087.

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

U.S. Environmental Protection Agency, Fines and Penalties
U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL

St. Louis, MO 63101

The Customer Service contact for the above method of payment is Natalie Pearson at 314-418-4087.

- 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"

The Federal Reserve Bank of New York Customer Service phone number for the above method of payment is 212-720-5000.

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

Automated Clearinghouse (ACH) for receiving U.S. currency
PNC Bank
808 17th Street NW
Washington, DC 20074

ABA = 051036706
Transaction Code 22 - checking
Environmental Protection Agency
Account 310006
CTX Format

The Customer Service contact for the above method of payment is Jesse White at 301-887-6548.

- 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

Daniel L. Isales (3EC10)
Environmental Science Center
U.S. Environmental Protection Agency, Region III
701 Mapes Road
Fort Meade, MD 20755-5350

50. Payment of the civil penalty amount of \$2,714.00 for Count III, 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, the Docket Number of this action (Docket No. RCRA/CWA-03-2010-0026), and "Oil Spill Liability Trust Fund - 311";
- b. All checks shall be made payable to the "Environmental Protection Agency;"
- 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 Natalie Pearson at 314-418-4087.

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

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

The Customer Service contact for the above method of payment is Natalie Pearson at 314-418-4087.

- 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"

The Federal Reserve Bank of New York Customer Service phone number for the above method of payment is 212-720-5000.

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

Automated Clearinghouse (ACH) for receiving U.S. currency
PNC Bank
808 17th Street NW
Washington, DC 20074

ABA = 051036706
Transaction Code 22 - checking
Environmental Protection Agency
Account 310006
CTX Format

The Customer Service contact for the above method of payment is Jesse White at 301-887-6548.

- 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

Daniel L. Isales (3EC10)
Environmental Science Center
U.S. Environmental Protection Agency, Region III
701 Mapes Road
Fort Meade, MD 20755-5350

51. 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 Paragraphs 49 and 50, above, shall be resolved by negotiation between the EPA and Respondent or by referral to the General Accounting Office.

EFFECT OF SETTLEMENT

52. Payment of the penalty specified in Paragraph 45, above, in the manner set forth in Paragraphs 49 and 50, above, shall constitute full and final satisfaction of all civil claims for penalties which Complainant may have under RCRA and the CWA, for the specific violations alleged in Counts I through III, 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

53. 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 and CWA, 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

54. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e, and Sections 309 and 311 of the CWA, 33 U.S.C. §§ 1319 and 1321, 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

55. Failure to obtain adequate funds or appropriations from Congress does not release Respondent from its obligation to comply with RCRA and the CWA, 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

56. 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

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

For Respondent:

8/12/2009
Date

United States Postal Service


Penny P. Hembrick

Penny Hembrick
Manager, USPS Vehicle Maintenance
1001 School Street
Richmond, VA 23232-9300

For Complainant:


U.S. Environmental Protection Agency,
Region III

10/17/09
Date


Daniel L. Isales
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.

11/10/09
Date


Samantha P. Beers, Director
Office of Enforcement, Compliance, and
Environmental Justice
U.S. EPA - Region III

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

IN RE:

United States Postal Service,

Respondent,

Norfolk Vehicle Maintenance Facility
600 Church Street
Norfolk, Virginia 23501

Facility.

Docket No. RCRA/CWA-03-2010-0026

FINAL ORDER

Complainant, the Director of the Office of Enforcement, Compliance, and Environmental Justice, U.S. Environmental Protection Agency - Region III, and Respondent, the United States Postal Service, have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22, with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based on the representations of the parties set forth in the Consent Agreement, I have determined that the penalty assessed herein is based upon a consideration of the factors set forth in Section 9006(c) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6991e(c), EPA's November 1990 Penalty Guidance for Violations of UST Regulations, the factors set forth in Section 309(g) of the CWA, 33 U.S.C. § 1319(g), EPA's 1995 *Interim Clean Water Act Settlement Penalty Policy*, the factors set forth in Section 311 of the CWA, 33 U.S.C. § 1321, EPA's 1998 *Civil Penalty Policy for Section 311(b)(3) and Section 311(j) of the Clean Water Act*, and the Consolidated Rules of Practice. **IT IS HEREBY ORDERED** that Respondent pay a penalty of **FORTY ONE THOUSAND, FIVE HUNDRED AND FIFTY EIGHT DOLLARS (\$41,558.00)** in accordance with the foregoing Consent Agreement. Payment shall be made in the manner set forth in the foregoing Consent Agreement. Payment shall reference Respondent's name and address as well as the EPA Docket Number of this Final Order (Docket No. RCRA/CWA-03-2010-0026).

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.

NOV 13 2009

Date



William C. Early
Acting Regional Administrator
U.S. Environmental Protection Agency, Region III