

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for John W. Kilborn, Esq.
Name of Case Attorney

4/19/17
Date

in the ORC (RAA) at 918-1113
Office & Mail Code Phone number

Case Docket Number CAA-01-2016-0036

Site-specific Superfund (SF) Acct. Number _____

This is an original debt _____ This is a modification

Name and address of Person and/or Company/Municipality making the payment:

CAPT Matthew R. Lear
U.S. Navy, Naval Computer & Telecommunications Area Master Station
9625 Mottet Avenue
Norfolk, VA 23511-2784

Total Dollar Amount of Receivable \$ 811,000.00 Due Date: 7/18/17

SEP due? Yes _____ No Date Due _____

Installment Method (if applicable)

INSTALLMENTS OF:

- 1st \$ _____ on _____
- 2nd \$ _____ on _____
- 3rd \$ _____ on _____
- 4th \$ _____ on _____
- 5th \$ _____ on _____

For RHC Tracking Purposes:

Copy of Check Received by RHC _____ Notice Sent to Finance _____

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

IFMS Accounts Receivable Control Number _____

If you have any questions call: _____
in the Financial Management Office

Phone Number _____



U. S. ENVIRONMENTAL PROTECTION AGENCY – NEW ENGLAND
5 POST OFFICE SQUARE, SUITE 100 (OES04-3)
BOSTON, MA 02109-3912

HAND DELIVERY

RECEIVED

April 19, 2017

APR 19 2017

EPA ORC
Office of Regional Hearing Clerk

Ms. Wanda Santiago
Regional Hearing Clerk
U.S. EPA, Region I
5 Post Office Square, Suite 100
Boston, MA 02109-3912

Re: *In the Matter of Cutler Naval Facility/Docket CAA 01-2016-0036*

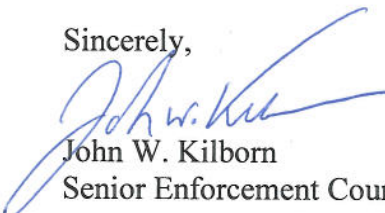
Dear Ms. Santiago:

Attached for filing in the above-referenced matter are an original and one copy of an executed *Consent Agreement and Final Order* (“CAFO”) for the above-referenced matter that the EPA has entered into with the United States Navy. Also attached are an original and one copy of a Certificate of Service.

EPA has also sent copies of the CAFO, the Certificate of Service, and this letter to the Respondents by First Class Mail.

Thank you for your assistance. Please call me if you have any questions.

Sincerely,


John W. Kilborn
Senior Enforcement Counsel

cc: Dominick G. Yacono, Esq., U.S. Navy
Steven Calder, EPA

Enclosures:

1. Original CAFO and copy of CAFO
2. Certificate of Service and copy

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

RECEIVED

APR 19 2017

EPA ORC
Office of Regional Hearing Clerk

Docket No. CAA-01-2016-0036

IN THE MATTER OF)

United States Navy, Respondent)
Naval Computer and Telecommunications)
Area Master Station Atlantic,)
Detachment Cutler)
Cutler, Maine, Facility)

Proceeding under Section)
113 of the Clean Air Act)

CONSENT AGREEMENT AND FINAL ORDER

A. PRELIMINARY STATEMENT

1. This is an administrative penalty assessment proceeding brought pursuant to Section 113(d) of the Clean Air Act (the "Act" or "CAA"), 42 U.S.C. § 7413(d), and Sections 22.13 and 22.18 of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* ("Consolidated Rules"), as codified at 40 C.F.R. Part 22.

2. Complainant is the United States Environmental Protection Agency, Region 1 ("EPA"). On the EPA's behalf, Susan Studlien, Director, Office of Environmental Stewardship, is delegated the authority to settle civil administrative penalty proceedings under Section 113(d) of the Act.

3. Respondent is the United States Navy, a department of the United States. Respondent is a "person" as defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e).

4. This proceeding involves Complainant's allegations that Respondent has violated EPA's *National Emission Standards for Hazardous Air Pollutants for Stationary*

Reciprocating Internal Combustion Engines, codified at 40 CFR Part 63, Subpart ZZZZ (“Subpart ZZZZ”).

5. Complainant and Respondent, having agreed that settlement of this action is in the public interest, consent to the entry of this Consent Agreement (“Consent Agreement” or “Agreement”) and the attached Final Order (“Final Order” or “Order”) without adjudication of any issues of law or fact herein, and Respondent agrees to comply with the terms of this Consent Agreement and Final Order (“CAFO”).

B. JURISDICTION

6. This Consent Agreement is entered into under Section 113(d) of the Act, as amended, 42 U.S.C. § 7413(d), and the Consolidated Rules, 40 C.F.R. Part 22.

7. The EPA and the United States Department of Justice jointly determined that this matter, although it involves alleged violations that occurred more than one year before the initiation of this proceeding and penalties that exceed certain statutory limitations, is appropriate for an administrative penalty assessment. 42 U.S.C. § 7413(d)(1).

8. The Regional Judicial Officer is authorized to ratify this Consent Agreement, which memorializes a settlement between Complainant and Respondent. 40 C.F.R. §§ 22.4(a) and 22.18(b).

9. The issuance of this Consent Agreement and attached Final Order concludes this proceeding. 40 C.F.R. § 22.18(b)(3).

C. ALLEGED VIOLATIONS OF LAW

Statutory and Regulatory Background and Authorities

10. Section 112 of the CAA, 42 U.S.C. § 7412, requires EPA to establish emission standards for categories of sources of hazardous air pollutants (“HAPs”). These standards are known as the National Emission Standards for Hazardous Air Pollutants (“NESHAPs”).

11. EPA promulgated the stationary reciprocating internal combustion engine (“RICE”) NESHAP, Subpart ZZZZ, pursuant to Section 112 of the Act, 42 U.S.C. § 7412. Regulations promulgated under CAA Section 112 are enforceable by EPA in accordance with Section 113 of the Act, 42 U.S.C. § 7413.

12. Respondent’s alleged violations described herein render Respondent liable for penalties under Section 113(d) of the Act, which authorizes EPA to issue administrative penalty orders. 42 U.S.C. § 7413(d).

General Findings Regarding the Cutler Facility

13. Respondent maintains a computer and telecommunications facility located at 175 Ridge Road, Cutler, Maine (the “Facility” or the “Cutler Facility”). The Facility has two 13-antenna arrays that provide redundant capabilities to communicate to the naval fleet.

14. Respondent operates five diesel powered, compression ignition, stationary, reciprocating internal combustion engines at the Facility to supply electrical power for transmitting radio waves and other power needs. Each of the four engines identified as D#2, D#3, D#4, and D#5 has the capability to generate 3000 kW of electricity, and each engine has a rated output capacity of 4066 horsepower (“HP”). The Facility also operates one engine identified as D#6 that has the capability to generate 750 kW of electricity and has a

rated output capacity of 906 HP. (An additional diesel engine with the capability to generate 2750 kW of electricity (D#1) is located at the Facility but has been decommissioned.)

15. Each of the five diesel engines at the Cutler Facility (D#2, D#3, D#4, D#5, and D#6) is a non-emergency, diesel powered, non-black start, compression ignition (“CI”), stationary RICE greater than 500 HP. Each engine is subject to Subpart ZZZZ.

16. The Cutler Facility is an area source of hazardous air pollutants.

17. The compliance deadline for Subpart ZZZZ was May 3, 2013.

18. On June 6, 2013, Respondent requested an extension of the compliance deadline of the emissions and operating limitations applicable to the Cutler Facility until October 2015.

19. Subpart ZZZZ requires that compliance extension requests be submitted 120 days prior to the compliance date. See 40 CFR §§ 63.6665 and 63.6(i)(4)(i)(B).

20. On July 30, 2013 and October 27, 2014, EPA conducted inspections of the Facility.

21. On July 16, 2015, EPA issued a Notice of Violation (“NOV”) to Respondent regarding its operation of diesel powered engines to generate electricity at the Cutler Facility.

22. The NOV contains EPA’s findings that Respondent has violated certain provisions of Subpart ZZZZ at the Cutler Facility.

Specific Findings Regarding the Cutler Facility

Engine Emission Control Violations

23. Owners or operators of existing stationary CI RICE located at an area source of HAP emissions must comply with the requirements in Table 2d of Subpart ZZZZ. See 40 CFR §63.6603.

24. According to Requirement 3 of Table 2d of Subpart ZZZZ, non-emergency, non-black start, CI, stationary RICE greater than 500 HP, are required to:

- (a) Limit the concentration of carbon monoxide (“CO”) in the stationary RICE exhaust to 23 parts per million, volumetric dry (“ppmvd”) at 15% oxygen; or
- (b) Reduce CO emissions by 70 percent or more.

25. The Cutler Facility has failed to either limit the concentration of CO in the D#2, D#3, D#4, D#5, and D#6 exhaust to 23 ppmvd at 15% oxygen, or to reduce CO emissions from these engines by 70 percent or more.

26. Accordingly, the Cutler Facility has violated 40 CFR §63.6603.

Initial Compliance Demonstration and Initial Performance Testing Violations

27. Owners or operators of existing stationary CI RICE greater than 500 HP must demonstrate initial compliance with the emission limitations, operating limitations, and other requirements contained in Tables 5 and 2b of Subpart ZZZZ. See 40 CFR §§63.6630(a) and (b).

28. The Cutler Facility has failed to make a timely initial compliance demonstration.

29. Accordingly, the Cutler Facility has violated 40 CFR §63.6630.

30. Furthermore, owners or operators must conduct initial performance tests within 180 days after the compliance date of May 3, 2013. See 40 CFR §63.6612(a).

31. The Cutler Facility has failed to conduct timely initial performance tests.

32. Accordingly, the Cutler Facility has violated 40 CFR §63.6612.

Demonstration of Continuous Compliance Violations

33. Owners or operators of existing stationary CI RICE greater than 500 HP must demonstrate continuous compliance with each emission limitation, operating limitation, and

other requirements in the applicable tables of Subpart ZZZZ. See 40 CFR §63.6640(a). For example, if the Cutler Facility uses an oxidation catalyst to limit or reduce CO concentrations, Table 2b requires owners or operators to:

- (a) maintain the catalyst so that the pressure drop across the catalyst does not change by more than two inches of water column from the pressure drop across the catalyst that was measured during the initial performance test; and
- (b) maintain the temperature of the stationary RICE exhaust so that the catalyst inlet temperature is greater than or equal to 450°F and less than or equal to 1,350°F.

34. The Cutler Facility has failed to demonstrate continuous compliance.

35. Accordingly, the Cutler Facility has violated 40 CFR §63.6640(a).

Notification and Reporting Violations

36. According 40 CFR §63.6645 of Subpart ZZZZ, owners or operators are required to submit all of the notifications required by the following General Provisions of the NESHAP regulations:

- (a) 40 CFR §63.7(b) - Notification of Performance Testing
- (b) 40 CFR §63.7(c) - Quality Assurance Program
- (c) 40 CFR §63.8(e) - Performance Evaluation of Continuous Monitoring Systems
- (d) 40 CFR §63.9(b) - Initial Notifications
- (e) 40 CFR §63.9(e) - Notification of Performance Test
- (f) 40 CFR §63.9(g) - Additional Notification Requirements for Sources with
Continuous Monitoring Requirements
- (g) 40 CFR §63.9(h) - Notification of Compliance Status

37. The Cutler Facility has failed to timely submit the required notifications.

38. Accordingly, the Cutler Facility has violated 40 CFR §63.6645.

39. Also, owners or operators are required to submit annual and semiannual compliance reports. See 40 CFR §63.6650.

40. The Cutler Facility has failed to timely submit the required annual and semiannual compliance reports.

41. Accordingly, the Cutler Facility has violated 40 CFR §63.6650.

D. TERMS OF CONSENT AGREEMENT

42. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2),

Respondent:

- (a) admits that the EPA has jurisdiction over the subject matter alleged in this Agreement and waives any defenses as to jurisdiction and venue;
- (b) neither admits nor denies the specific factual allegations of Section C of this Agreement;
- (c) consents to the assessment of a civil penalty as stated below;
- (d) consents to the issuance of any specified compliance or corrective action orders;
- (e) consents to the conditions specified in this Agreement;
- (f) waives any right to request a judicial or administrative hearing or consultation or otherwise contest the alleged violations of law set forth in Section C of this Agreement;
- (g) agrees to settlement of this matter through this Consent Agreement and Final Order, without the filing of an administrative complaint, as authorized under the Consolidated Rules at 40 C.F.R. § 22.13(b); and

(h) waives its rights to appeal the Order accompanying this Agreement.

43. For the purpose of this proceeding, Respondent:

- (a) agrees that this Agreement states a claim upon which relief may be granted against Respondent;
- (b) acknowledges that this Agreement constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement actions;
- (c) waives any and all remedies, claims for relief and otherwise available rights to administrative review that Respondent may have with respect to any issue of fact or law set forth in this Order;
- (d) expressly waives any right to contest the allegations contained in this CAFO and to appeal the Final Order, including any right to confer with the EPA Administrator under 40 C.F.R. § 22.31(e) with regard to this case;
- (e) waives the notice requirement and the opportunity to request a hearing on the order pursuant to Section 113(d)(2)(A) of the Clean Air Act, 42 U.S.C. § 7413(d)(2)(A); and
- (f) consents to the terms of this CAFO.

44. Penalty Payment

- (a) EPA has compromised the maximum civil penalty of \$44,539 per day per violation authorized in this matter, applying the factors set forth in Section 113(e) of the Act, 42 U.S.C. § 7413(e), and the 1991 Clean Air Act Stationary Source Civil Penalty Policy, including Respondent's significant

cooperation in agreeing to perform the non-penalty obligations contained in Appendix 1 to this Agreement.

(b) In light of the particular facts and circumstances of this matter, with specific reference to the statutory factors of Section 113(e)(1) of the Act, 42 U.S.C. § 7413(e), and considering Respondent's significant cooperation in agreeing to perform the non-penalty obligations contained in Appendix 1, EPA has determined that it is fair and proper to assess a civil penalty for the violations alleged in Section C of this Agreement in the amount of eight hundred and eleven thousand dollars (\$811,000).

(c) Respondent agrees to pay the civil penalty of eight hundred and eleven thousand dollars (\$811,000) ("EPA Penalty") within ninety (90) calendar days of the Effective Date of this Agreement.

(d) Respondent shall make its penalty payment by a certified check, cashier's check, or electronic transfer, and payable to "United States Treasury," in accordance with the following instructions:

All payments made by check and sent by U.S. Postal Service regular mail shall be addressed to:

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

(e) Respondent's Treasury Account Symbol is 17 1804 Operations and Maintenance Navy. Inquiries concerning this payment can be made to Comptroller for the Naval Computer and Telecommunications Area Master

Station Atlantic, Mr. William Wilken. Mr. Wilken can be contacted by e-mail at william.wilken@navy.mil or by telephone at 757-443-9430.

(f) All payments made by check and sent by UPS, FedEx, or overnight mail delivery service shall be addressed 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

(g) All payments made by electronic funds transfer (“EFT”) shall be directed to:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 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”)

(h) All electronic payments made through the Automated Clearinghouse (“ACH”), also known as Remittance Express (“REX”), shall be directed to:

US Treasury REX/Cashlink ACH Receiver
ABA = 051036706
Account No.: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – Checking

Physical location of U.S. Treasury facility:

5700 Rivertech Court
Riverdale, MD 20737

(i) Payment may be made using the Intra Governmental Payment and Collection application (IPAC), Agency Location Code 68-01-0727. Please include the Docket Number of this action (Docket No. CAA-01-2016-0036) in the description field of the IPAC. The Customer Service contact is Molly Williams at 513-487-2076.

(j) Additional payment guidance is available at:
<http://www2.epa.gov/financial/makepayment>.

(k) All payments by Respondent shall include Respondent's full name and address and the EPA Docket Number of this CAFO.

(l) At the time of payment, Respondent shall send a notice of such payment, including a copy of any check, EFT authorization, or ACH authorization, as appropriate, to:

Wanda I. Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100 (ORA18-
1) Boston, MA 02109-3912

and

John W. Kilborn
Senior Enforcement Counsel
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100 (OES04-3)
Boston, MA 02109-3912

45. If Respondent fails to make full and complete payment of the \$811,000 penalty by the due date set forth in this CAFO, the entire unpaid balance of the penalty shall become immediately due and owing. EPA reserves its right to compel payment, and in any action to

compel payment of the unpaid balance of the penalty, the validity, amount, and appropriateness of the penalty shall not be subject to review. EPA also reserves its right to seek interest on any unpaid portion of the late payment. No interest shall be payable on any portion of the assessed penalty that is paid within 90 days of the effective date of the Final Order. The Navy disputes EPA's authority to impose interest charges on a federal agency and reserves its right to dispute any imposition of interest by EPA.

46. Conditions. As a condition of settlement, Respondent agrees to comply with the non-penalty provisions of Appendix 1 (Terms of Compliance) as of the Effective Date of this Agreement. Appendix 1 is attached hereto and incorporated herein by reference. Respondent shall comply with the requirements specified in Appendix 1 beginning with the Effective Date of this CAFO, as demonstrated through adequate recordkeeping.

- (a) Respondent shall be liable for stipulated penalties in the amount of \$1,000 for each day for the first through fifth day for each failure to perform any action required under the provisions of Appendix 1 and \$2,000 for each day thereafter for each failure to perform any action required under the provision of Appendix 1.
- (b) Respondent shall pay stipulated penalties plus any interest due thereupon within sixty (60) days of receipt of a written demand by EPA for such penalties. The method of payment shall be in accordance with the provisions of Paragraph 44 herein. EPA may, in its sole discretion, elect not to seek stipulated penalties or to compromise any portion of stipulated penalties that accrue pursuant to this CAFO.

47. Respondent agrees that the time period from the Effective Date of this Agreement until all of the conditions specified in Paragraphs 44 through 46 are completed (the “Tolling Period”) shall not be included in computing the running of any statute of limitations potentially applicable to any action brought by Complainant on any claims (the “Tolled Claims”) set forth in Section C of this Agreement. Respondent shall not assert, plead, or raise in any fashion, whether by answer, motion or otherwise, any defense of laches, estoppel, or waiver, or other similar equitable defense based on the running of any statute of limitations or the passage of time during the Tolling Period in any action brought on the Tolled Claims.

48. By signing this Agreement, Respondent acknowledges that this Agreement and Order will be available to the public and agrees that this Agreement does not contain any information that is confidential or sensitive or contains national security or personally identifiable information.

49. By signing this Agreement, the undersigned representative of Complainant and the undersigned representative of Respondent each certify that he or she is fully authorized to execute and enter into the terms and conditions of this Agreement and has the legal capacity to bind the party he or she represents to this Agreement.

50. By signing this Agreement, both parties agree that each party’s obligations under this Consent Agreement and attached Final Order constitute sufficient consideration for the other party’s obligations.

51. By signing this Agreement, Respondent certifies that the information it has supplied concerning this matter was at the time of submission true, accurate, and complete for each such submission, response, and statement. Respondent acknowledges that there are significant penalties for submitting false or misleading information, including the possibility

of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.

52. Failure to obtain adequate funds or appropriations from Congress does not release Respondent from its obligation to comply with the CAA, 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.

53. Each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.

54. All notices and submissions required by this Order shall be sent to:

If by Respondent:

Steven Calder
Office of Environmental Stewardship
U.S. Environmental Protection Agency—Region I
Suite 100 Mail Code OES4-2
5 Post Office Square
Boston, MA 02109-3912

or

Calder.Steve@epa.gov

With a copy to:

John Kilborn, Senior Enforcement Counsel
Office of Environmental Stewardship
U.S. Environmental Protection Agency—Region I
Suite 100 Mail Code OES4-3
5 Post Office Square
Boston, MA 02109-3912

or

Kilborn.john@epa.gov

If by EPA:

Jude T. Klena
Naval Information Forces
Office of the General Counsel

115 Lake View Parkway
Suffolk, VA 23435
or
jude.klena@navy.mil

With a copy to:

Dominick G. Yacono
Navy Region Mid-Atlantic
Office of the General Counsel
1510 Gilbert Street
Norfolk, VA 23511-2737
or
dominick.yacono@navy.mil

E. EFFECT OF CONSENT AGREEMENT AND ATTACHED FINAL ORDER

55. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this Consent Agreement and Final Order resolves only Respondent's liability for federal civil penalties for the violations and facts specifically alleged in Section C of this Agreement.

56. This Agreement constitutes the entire agreement and understanding of the parties and supersedes any prior agreements or understandings, whether written or oral, among the parties with respect to the subject matter hereof.

57. The terms, conditions, and compliance requirements of this Agreement may not be modified or amended except upon the written agreement of both parties, and approval of the Regional Judicial Officer.

58. Nothing in this Agreement shall relieve Respondent of the duty to comply with all applicable provisions of the Act and other federal, state, or local laws, regulations, rules, or codes, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.

59. Nothing herein shall be construed to limit the power of the EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.

60. The EPA reserves the right to revoke this Agreement and settlement penalty if and to the extent that the EPA finds, after signing this Agreement, that any information provided by Respondent was materially false or inaccurate at the time such information was provided to the EPA, and the EPA reserves the right to assess and collect any and all civil penalties for any violation described herein. The EPA shall give Respondent notice of its intent to revoke, which shall not be effective until received by Respondent in writing.

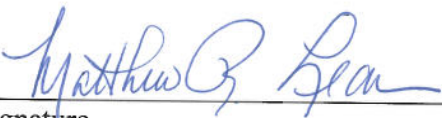
F. EFFECTIVE DATE

61. Respondent and Complainant agree to issuance of the attached Final Order. Upon filing, the EPA will transmit a copy of the filed Consent Agreement to the Respondent. This Consent Agreement and attached Final Order shall become effective after execution of the Final Order by the Regional Judicial Officer, on the date of filing with the Regional Hearing Clerk.

*Consent Agreement and Final Order, United States Navy, Cutler Maine Detachment
Docket No. CAA-01-2016-0036*

The foregoing Consent Agreement *In the Matter of United States Navy, Cutler Maine Detachment*, Docket No. CAA-01-2016-0036, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:



Signature

4 APR 2017

Date

Printed Name: CAPT Matthew R. Lear
U.S. Navy, Naval Computer and Telecommunications Area Master Station
Atlantic
Title: Commanding Officer
Address: 9625 Moffet Avenue, Norfolk VA 23511-2784

*Consent Agreement and Final Order, United States Navy, Cutler Maine Detachment
Docket No. CAA-01-2016-0036*

The foregoing Consent Agreement *In the Matter of United States Navy, Cutler Maine Detachment*, Docket No. CAA-01-2016-0036, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR COMPLAINANT:

04/12/2017
DATE

Susan Studlien
Susan Studlien, Director
Office of Environmental Stewardship
U.S. Environmental Protection Agency – Region 1
5 Post Office Square
Suite 100, Mail Code OES4-5
Boston, MA 02109-3912

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1


_____)	
IN THE MATTER OF)	
)	
United States Navy)	
Naval Computer and Telecommunications)	Docket No. CAA-01-2016-0036
Area Master Station Atlantic,)	
Detachment Cutler)	
Cutler, Maine)	
)	
Proceeding under Section)	
113 of the Clean Air Act)	
_____)	

FINAL ORDER

In accordance with 40 C.F.R. § 22.18(b) of the United States Environmental Protection Agency's Consolidated Rules of Practice, the parties to this matter have forwarded the foregoing executed Consent Agreement for final approval. Section 113(d)(1) of the Clean Air Act, 42 U.S.C. § 7413(d)(1), authorizes EPA to issue an administrative penalty to enforce the requirements of this Act. In addition, Section 113(d)(2)(B) of the Clean Air Act, 42 U.S.C. § 7413(d)(2)(B), authorizes EPA to compromise the maximum civil penalty of \$44,539 per day per violation by applying the penalty factors set forth in Section 113(e)(1) of the CAA, 42 U.S.C. § 7413(e)(1), to the facts and circumstances of this case, including Respondent's significant cooperation to date and agreement to perform non-penalty conditions. Pursuant to these provisions, EPA has modified the maximum civil penalty and imposed the conditions described in Section D and Appendix 1 of the Consent Agreement. Respondent has consented to the terms of this Consent Agreement.

Pursuant to 40 C.F.R. § 22.18(b) of EPA's Consolidated Rules of Practice and Section 113(d) of the Clean Air Act, 42 § 7413(d), the Consent Agreement is incorporated by reference into this Final Order and is hereby ratified. The Consent Agreement and this Final Order constitute a settlement by EPA of all claims for civil penalties for the violations of the Clean Air Act alleged in Part C of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(a), nothing in this Final Order shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of the Clean Air Act and regulations promulgated or permits issued thereunder. The Respondent, United States Navy, is ordered to pay the civil penalty amount in the amount of eight hundred and eleven thousand dollars (\$811,000) in the manner indicated. The terms of the Consent Agreement will become effective on the date it is filed with the Regional Hearing Clerk.

SO ORDERED THIS 12th DAY OF April 2017.



LeAnn Jensen, Esq.
Acting Regional Judicial Officer

APPENDIX 1

Terms of Compliance Consent Agreement and Final Order (“CAFO”) United States Navy, Cutler Maine Detachment

1. Respondent shall comply with all applicable provisions of the *National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines* (“RICE”), codified at 40 CFR Part 63, Subpart ZZZZ (“Subpart ZZZZ”), including without limitation, any general regulations contained in 40 CFR Part 63, Subpart A that Subpart ZZZZ makes applicable to Respondent (the “General Provisions”).
2. Respondent shall install emission controls compliant with Subpart ZZZZ on each of the four main engines at the Cutler Facility identified as D#2, D#3, D#4, and D#5 and the smaller engine identified as D#6. The installation of controls on the first main engine, D#2, shall be complete by September 20, 2016. All such controls shall be installed and operational by February 20, 2017. Respondent shall achieve the applicable emission limits of Subpart ZZZZ on the first main engine, D#2, by September 20, 2106 and on all engines identified in this Paragraph by February 20, 2017.
3. Respondent shall test the emissions of each engine pursuant to Subpart ZZZZ. The controls on main engine D#2 and the smaller engine identified as D#6 shall be tested within thirty (30) days after installation of the controls during the first mobilization for stack testing in September 2016. The controls on main engines D#3, D#4, D#5 will be tested during a second mobilization for stack testing which would not occur until after the last engine, D#5, is retrofitted. All final stack testing shall be completed by March 22, 2017.
4. After testing confirms that the first main engine, D#2, with emission controls complies with Subpart ZZZZ, Respondent shall use that engine to generate power for its transmissions needs, until other engines have achieved compliance with Subpart ZZZZ. If a malfunction occurs to engine D#2 and it is not operable or if de-icing is required due to freezing temperatures, Respondent will need to operate one or more of the other main engines (D#3, D#4, D#5). Respondent will provide notification to EPA Region 1 as directed in paragraph 54 if a malfunction occurs to engine D#2 and/or if de-icing is required which requires the use of the other main engines (D#3, D#4, D#5) prior to the completion of all final stack testing.
5. Respondent shall submit a protocol for any emission testing to EPA for approval at least thirty (30) days before the commencement of such testing. Respondent shall grant EPA access to review and observe such testing. Respondent shall submit a written report to EPA regarding the results of the emissions testing within sixty (60) days of performing such testing. Respondent may submit the final test report and notification of compliance status (as described below) concurrently.
6. Respondent shall comply with this Appendix, as demonstrated through adequate recordkeeping. Respondent shall implement a record-keeping system that will record and

maintain the information necessary to demonstrate compliance with Subpart ZZZZ and this CAFO.

7. Respondent shall submit to EPA quarterly reports for twelve months or until completion of the installation and testing of the emission controls, whichever is longer, to demonstrate compliance with the terms of this CAFO. The first quarterly report will cover the three calendar-month period following the Effective Date of the CAFO. Respondent shall submit each quarterly report within 60 days of the end of the quarter.

8. Without limiting and as stated above, Respondent shall meet all applicable requirements of Subpart ZZZZ, including, but not limited to, the requirements summarized below.¹ Note that not all of the requirements of Subpart ZZZZ applicable to Respondent are listed below. Respondent shall comply with any applicable requirements of Subpart ZZZZ even if they are not listed below.

a. Emission Limitations and Operating Limitations

- i. As required by 40 CFR §63.6603(a), comply with the emission limitations contained in Table 2d. Specifically:
 1. Limit the concentration of carbon monoxide (“CO”) in the stationary RICE exhaust to 23 ppmvd at 15 percent oxygen, or
 2. Reduce CO emissions by 70 percent or more.
- ii. As required by 40 CFR §63.6603(a), comply with the operating limitations contained in Table 2b. Specifically:
 1. Maintain the catalyst so that the pressure drop across the catalyst does not change by more than two inches of water from the pressure drop across the catalyst that was measured during the initial performance test; and
 2. Maintain the temperature of the stationary RICE exhaust so that the catalyst inlet temperature is greater than or equal to 450°F and less than or equal to 1,350°F.

b. Initial Compliance with Emission Limitations, Operating Limitations, and Other Requirements

- i. As required by 40 CFR §63.6630(a), Respondent shall demonstrate initial compliance according to Table 5 with each applicable emission and operating limitation. Specifically:
 1. IF Respondent elects to reduce the percentage of CO emissions using an oxidation catalyst and a continuous parameter monitoring system (“CPMS”), Respondent shall have demonstrated compliance if:

¹ Note that the following provisions of 40 CFR Part 63, Subpart ZZZZ apply to existing, stationary, compression ignition RICE greater than 500 horsepower using an oxidation catalyst located at an area source of Hazardous Air Pollutants.

- a. The average reduction of emissions of CO determined from the initial performance test achieves the required CO percent reduction; and
- b. Respondent has installed a CPMS to continuously monitor catalyst inlet temperature according to the requirements in 40 CFR §63.6625(b); and
- c. Respondent has recorded the catalyst pressure drop and catalyst inlet temperature during the initial performance test.

OR

2. IF Respondent elects to limit the concentration of CO using an oxidation catalyst and a CPMS; Respondent shall have demonstrated compliance if:
 - a. The average CO concentration determined from the initial performance test is less than or equal to the CO emission limitation; and
 - b. Respondent has installed a CPMS to continuously monitor catalyst inlet temperature according to the requirements in 40 CFR §63.6625(b); and
 - c. Respondent has recorded the catalyst pressure drop and catalyst inlet temperature during the initial performance test.

c. Initial Performance Testing

- i. As required by 40 CFR §63.6612(a), Respondent shall conduct initial performance testing according to Table 4 by complying with either (1) or (2) below. Specifically:
 1. IF Respondent elects to comply with the requirement to reduce the percentage of CO emissions, Respondent shall:
 - a. Select the sampling port location and the number/locations of traverse points at the inlet and outlet of the control device; and
 - b. Measure the oxygen at the inlet and outlet of the control device; and
 - c. Measure the CO at the inlet and the outlet of the control device.

OR

2. IF Respondent elects to comply with the requirement to limit the concentration of CO in the stationary RICE exhaust, Respondent shall:

- a. Select the sampling port location and the number/locations of traverse points at the exhaust of the stationary RICE; and
 - b. Determine the oxygen concentration of the stationary RICE exhaust at the sampling port location; and
 - c. Measure moisture content of the stationary RICE exhaust at the sampling port location; and
 - d. Measure CO at the exhaust of the stationary RICE.
- ii. Respondent shall follow the procedures for performance testing outlined in 40 CFR §63.6620.
 - iii. In addition, according to 40 CFR §63.6620(i), as part of the notification of compliance status, Respondent shall produce a written report of the average percent load determination. The report shall include the engine model number, the engine manufacturer, the year of purchase, the manufacturer's site-rated brake horsepower, and the ambient temperature, pressure, and humidity during the performance test and all assumptions that were made to estimate or calculate percent load during the performance test. If measurement devices such as flow meters, kilowatt meters, beta analyzers, stain gauges, etc. are used, provide the model number of the measurement device and an estimate of its accuracy in percentage of true value.

d. Continuous Compliance with Emission Limitations and Operating Limitations

- i. According to 40 CFR §63.6640, Respondent shall demonstrate continuous compliance with each applicable emission limitation and operating limitation that applies to Respondent according to the methods specified in Table 6. Specifically:
 1. If Respondent elects to reduce the percentage of CO emissions, or limit the concentration of CO in the stationary RICE exhaust, by using an oxidation catalyst, Respondent shall demonstrate continuous compliance by:
 - a. Conducting performance tests every 8,760 hours of operation or three years, whichever comes first, to demonstrate that the required CO percentage reduction is achieved, or that Respondent's emissions remain at or below the CO concentration limit; and
 - b. Collecting the catalyst inlet temperature data according to 40 CFR §63.6625(b); and
 - c. Reducing these data to 4-hour rolling averages; and
 - d. Maintaining the 4-hour rolling averages within the operating limitations for the catalyst inlet temperature; and
 - e. Measuring the pressure drop across the catalyst once per month and demonstrating that the pressure drop across the

catalyst is within the operating limitation established during the performance test.

e. Monitoring, Installation, Collection, Operation and Maintenance Requirements

i. Respondent shall comply with the monitoring, installation, collection, operation, and maintenance requirements of 40 CFR §63.6625.

Specifically:

1. According to 40 CFR §63.6625(b), Respondent shall install, operate, and maintain each CPMS according to the paragraphs (b)(1) through (6). This includes, but is not limited to, preparing a site-specific monitoring plan.
 2. According to 40 CFR §63.6625(g), IF Respondent operates an engine that is not equipped with a closed crankcase ventilation system, Respondent shall either:
 - a. Install a closed crank ventilation system that prevents crankcase emissions from being emitted to the atmosphere;
or
 - b. Install an open crankcase filtration emission control system that reduces emissions from the crankcase by filtering the exhaust stream to remove oil mist, particulates, and metals.
- ii. According to 40 CFR §63.6625(h), Respondent shall minimize the engine's time spent at idle during start-up and minimize the engines' startup time to a period needed for appropriate and safe loading of the engine, not to exceed 30 minutes, after which time the emission standards applicable to all times other than startup in Table 2b apply.

f. Notification, Recordkeeping, Reporting

i. Notifications

1. Respondent shall submit the notifications required by 40 CFR §63.6645 and the General Provisions including but not limited to the following:

- a. As required by 40 CFR §63.7(b)(1), Respondent shall submit a Notification of Intent to Test at least 60 days before the performance test is scheduled to begin.
- b. As required by 40 CFR §§63.9(h)(2)(ii) and 63.10(d)(2), Respondent shall submit a Notification of Compliance Status before the close of business on the 60th day following the completion of the performance test.

ii. Recordkeeping

1. Respondent shall keep the records required by 40 CFR §63.6655 and the General Provisions.

iii. Reporting

1. Respondent shall submit the reports required by 40 CFR §63.6650, Table 7, and the General Provisions.

[End of Appendix 1. The remainder of the page is intentionally left blank.]