

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 2  
290 Broadway  
New York, NY 10007-1866

U.S. Environmental  
Protection Agency-Reg 2  
2014 APR 17 AM 11:02  
REGIONAL HEARING  
CLERK

IN THE MATTER OF:

Richard E. Meyer & Sons, Inc.  
11 Factory Street  
P.O. Box 307  
Montgomery, New York 12549

**Respondent**

Proceeding pursuant to §309(g) of the  
Clean Water Act, 33 U.S.C. §1319(g)

**Administrative Complaint  
Findings of Violation, Notice of Proposed  
Assessment of a Civil Penalty, and Notice of  
Opportunity to Request a Hearing**

**Proceeding to Assess Class I  
Civil Penalty**

**Docket No. CWA-02-2014-3302**

**I. Preliminary Statement**

1. This Administrative Complaint, Findings of Violation, Notice of Proposed Assessment of a Civil Penalty, and Notice of Opportunity to Request a Hearing ("Complaint") is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 309(g)(2)(A) of the Clean Water Act ("Act"), 33 U.S.C. §1319(g)(2)(A). The Administrator has delegated this authority to the Regional Administrator of EPA, Region 2, who in turn has delegated it to the Director, Division of Enforcement and Compliance Assistance ("DECA") of EPA, Region 2 ("Complainant").
2. Pursuant to Section 309(g)(2)(A) of the Act, and in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits" ("CROP"), 40 C.F.R. Part 22, a copy of which is attached, Complainant hereby requests that the Regional Administrator assess a civil penalty against Richard E. Meyer & Sons, Inc. ("Respondent") for its violations of federal pretreatment standards and requirements promulgated pursuant to Section 307(b) of the Act, 33 U.S.C. §1317(b), and enforceable pursuant to Section 307(d) of the Act, 33 U.S.C. §1317(d).

**II. Statutory and Regulatory Provisions**

1. Section 201 of the Act, 33 U.S.C. §1281 provides that the purpose of this Subchapter is to require and to assist the development and implementation of waste treatment management plans and practices which will achieve the goals of the Act.
2. Section 212(2)(A) of the Act, 33 U.S.C. §1292(2)(A), defines the term "treatment works" as, among other things, any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature to implement Section 201 of this Act, 33 U.S.C. §1281, or necessary to recycle or reuse water at the most economical cost over the estimated

life of the works. Furthermore, Section 212(2)(B) of the Act, 33 U.S.C. §1292(2)(B), provides that “treatment works” also means any other method or system for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste, including storm water runoff, or industrial waste, including waste in combined storm water and sanitary sewer systems. Section 212(2)(C) of the Act, 33 U.S.C. §1292(2)(C) provides that for the purposes of Section 212(2)(B) of the Act, the Administrator shall, within one hundred and eighty days after the date of enactment of this title [enacted Oct. 18, 1972], publish and thereafter revise no less often than annually, guidelines for the evaluation of methods, including cost-effective analysis, described in Section 212(2)(B) of the Act.

3. Section 301(a) of the Act, 33 U.S.C. §1311(a), prohibits the discharge of any pollutant by any person from a point source into navigable waters of the United States, except in compliance with, inter alia, Section 402 of the Act, 33 U.S.C. §1342.
4. Section 301(b)(1)(A) of the Act, 33 U.S.C. §1311(b)(1)(A), provides that effluent limits for point sources, other than publicly owned treatment works, (i) which shall require the application of the best practicable control technology currently available as defined by the Administrator pursuant to Section 304(b) of the Act, 33 U.S.C. §1314(b), or (ii) in the case of a discharge into a publicly owned treatment works must require compliance with applicable pretreatment requirements and any requirements under Section 307 of the Act, 33 U.S.C. §1317.
5. Section 306(a)(3) of the Act, 33 U.S.C. §1316(a)(3), defines “source” as any building, structure, facility, or installation from which there is or may be the discharge of pollutants. Section 306(a)(4) of the Act, 33 U.S.C. §1316(a)(4), defines “owner or operator” as any person who owns, leases, operates, controls, or supervises a source.
6. Section 306(b) of the Act, 33 U.S.C. §1316(b), provides that the EPA Administrator identify categories of sources, including leather tanning and finishing, and propose, publish, and revise when needed regulations establishing Federal standards of performance for these categories taking into consideration the cost of achieving such effluent reduction, and any non-water quality, environmental impact and energy requirements.
7. Pursuant to Section 307(b) of the Act, 33 U.S.C. §1317(b), the Administrator of EPA promulgated “Categorical Pretreatment Standards” for the Leather Tanning and Finishing Point Source Categories (LTFPSC) (Pretreatment Standards for Existing Sources) for introduction of pollutants into treatment works (as defined in Section 212 of the Act), which are publicly owned for those pollutants.
8. Section 307(d) of the Act, 33 U.S.C. §1317(d), prohibits the owner or operator of any source from discharging pollutants into a publicly owned treatment work (“POTW”) in violation of the applicable pretreatment standards for that source.
9. Section 308(a)(A) of the Act, 33 U.S.C. §1318(a)(A), provides, in relevant part, that the Administrator of EPA may require the owner or operator of any point source to, among other things: maintain such records; make such reports; install, use and monitor such equipment; sample such effluents; and provide such other information as may reasonably be required in order to carry out Section 402 of the Act, 33 U.S.C. §1342.

10. Pursuant to Sections 307 and 308 of the Act, 33 U.S.C. §1317 and 1318, the EPA Administrator promulgated the General Pretreatment Regulations to control pollutants which pass through or interfere with treatment processes in POTWs or which may contaminate sewage sludge, at 40 C.F.R. §§403.1 – 403.20. “Categorical Pretreatment Standards” for the Leather Tanning and Finishing Point Source Category (LTFPSC) (Pretreatment Standards for Existing Sources), found at 40 C.F.R. Part 425, were promulgated to establish effluent limitations and standards to control specific toxic, nonconventional and conventional pollutants for nine subcategories in the leather tanning and finishing category. These standards became effective on November 23, 1982.
11. “Person” is defined by Section 502(5) of the Act, 33 U.S.C. §1362(5), to include, among other things, an individual, corporation, partnership, association or municipality.
12. “Pollutant” is defined by Section 502(6) of the Act, 33 U.S.C. §1362(6), to include among other things, solid waste, dredged spoil, rock, sand, cellar dirt, sewage, sewage sludge and industrial, municipal and agricultural waste discharged into water.
13. “Discharge of a pollutant” is defined by Section 502(12) of the Act, 33 U.S.C. §1362(12), to include any addition of any pollutant to navigable waters from any point source.
14. “Navigable waters” is defined by Section 502(7) of the Act, 33 U.S.C. §1362(7), to include the waters of the United States.
15. Pursuant to 40 C.F.R. §403.3(d), the term “Approved POTW Pretreatment Program or Program or POTW Pretreatment Program” means a program administered by a POTW that meets the criteria established in the General Pretreatment Regulations and which have been approved by a Regional Administrator or State Director in accordance with §403.11 of the Regulations.
16. Pursuant to 40 C.F.R. §403.3(f), the term “Control Authority” refers to (1) the POTW if the POTW’s Pretreatment Program Submission has been approved in accordance with 40 C.F.R. §403.11; or (2) the Approval Authority if the Submission has not been approved. The term “Approval Authority” means the Director in a State with an approved National Pollutant Discharge Elimination System (“NPDES”) pretreatment program or the appropriate Regional Administrator in a non-NPDES State or NPDES State without an approved State pretreatment program.
17. Pursuant to 40 C.F.R. §403.3(i), the term “Indirect Discharge” means the introduction of pollutants into a POTW from any non-domestic source regulated under Section 307(b), (c) or (d) of the Act.
18. Pursuant to 40 C.F.R. §403.3(j), the term “Industrial User” (“IU”) means a source of Indirect Discharge.
19. Pursuant to 40 C.F.R. §403.3(q), the term “Publicly Owned Treatment Works or POTW” means a treatment works as defined by Section 212 of the Act, which is owned by a State or municipality.
20. 40 C.F.R. §403.12(b) requires that an IU subject to categorical Pretreatment Standards and discharging into a POTW is required to submit to the Control Authority a report which includes, but is not limited to flow measurement and measurement of pollutants. Specifically, §403.12(b)(5) indicates that, at least, for the measurement of pollutants, the IU shall submit the results of sampling and analysis

identifying the nature and concentration (or mass) of regulated pollutants in the Discharge from each regulated process. Both daily maximum and average concentration (or mass) shall be reported.

21. 40 C.F.R. §403.12(b)(6) provides that a statement, reviewed by an authorized representative of the IU and certified by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O and M) and/or additional Pretreatment is required for the IU to meet the Pretreatment Standards and Requirements.
22. 40 C.F.R. §403.12(e) requires an IU subject to a categorical pretreatment standard to submit to the "Control Authority" (defined at 40 C.F.R. §403.12(a)) Periodic Reports on Continued Compliance ("Periodic Reports"). These reports, due during the months of June and December of each year, must, among other things, indicate the nature and concentration of those pollutants in the effluent subject to the applicable Categorical Pretreatment Standards.
23. 40 C.F.R. §403.12(g)(2) provides that if sampling performed by an IU indicates a violation, the IU shall notify the Control Authority within 24 hours of becoming aware of the violation. The Section also provides that the User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Control Authority within 30 days after becoming aware of the violation.
24. Pursuant 40 C.F.R. §425.30, the provisions of this Subpart are applicable to process wastewater discharges resulting from any tannery which processes raw or cured cattle or cattle-like hides into finished leather by hair save or pulp unhairing, vegetable tanning or alum, syntans, oils and other agents for tanning, and retan-wet finishing.
25. Pursuant to 40 C.F.R. §425.35, any existing sources subject to the LTFPSC Subpart that introduces process wastewater pollutants into a POTW must comply with 40 CFR Part 403, and the pretreatment standards in §425.35. The maximum per day limits of pretreatment standards for existing sources, include, but are not limited to Sulfide at 24 milligrams per liter (mg/l), Total Chromium at 12 mg/l, and pH at not less than 7. The maximum monthly averages, includes, but are not limited to Total Chromium at 8 mg/l, and pH at not less than 7. Any existing source subject to this subpart which processes less than 350 hides/day shall comply with §425.35(a), except that the Total Chromium limitations contained in §425.35(a) do not apply.

### **III. Findings of Fact and Conclusions of Law/Findings of Violation**

1. Respondent is a corporation organized under the laws of the State of New York and a "person" within the meaning of Section 502(5) of the Act, 33 U.S.C. §1362(5).
2. At all times relevant to this Administrative Complaint, Respondent owned and/or operated a facility (the "facility") located at 11 Factory Street, Montgomery, NY 12549, where it operates, among other things, leather tanning operations.
3. The Respondent has discharged wastewater from its manufacturing processes into the Village of Montgomery Wastewater Treatment Plant, which is a "publicly owned treatment works" within the meaning of Section 212(2)(a) of the Act, 33 U.S.C. §1292(2)(a). Wastewater or process wastewater is a "pollutant" within the meaning of Section 502(6) of the Act, 33 U.S.C. §1362(6).

4. At all times relevant to this Administrative Complaint, the facility was a “source” within the meaning of Section 306(a)(3) of the Act, 33 U.S.C. §1316(a)(3) and an “Industrial User” (“IU”) within the meaning of 40 C.F.R. 403.3(j).
5. As a non-domestic user of a POTW, the Respondent is required to comply with the requirements and standards promulgated by EPA pursuant to Sections 307 and 308 of the Clean Water Act, 33 U.S.C. §§1317 and 1318, including the General Pretreatment Regulations found at 40 C.F.R. Part 403.
6. Respondent’s manufacturing activities fall within the scope of LTFPSC, as it is set out in 40 C.F.R. §425.35. Respondent’s discharges of process wastewater to the Village of Montgomery Wastewater Treatment Plant are subject to the Categorical Pretreatment Standards for the LTFPSC set forth at 40 C.F.R. Part 425.
7. Section 307(d) of the Act, 33 U.S.C. §1317(d), prohibits the owner or operator of any source from discharging pollutants into a POTW in violation of the applicable pretreatment standards for that source.
8. Pursuant to Sections 307(b) and 308(a) of the Act, 33 U.S.C. §§1317(b) and 1318(a), the Administrator of EPA promulgated 40 C.F.R. §403.12(e) that requires an IU subject to a categorical pretreatment standard to submit to the “Control Authority” (defined at 40 C.F.R. §403.12(a)) Periodic Reports on Continued Compliance (“Periodic Reports”). These reports, due during the months of June and December of each year, must, among other things, indicate the nature and concentration of those pollutants in the effluent subject to the applicable Categorical Pretreatment Standards.
9. The Facility is subject to 40 C.F.R. §§403.12(b), (d), and (e) and was required to submit the Periodic Reports to EPA by June 30 and December 31 of every year thereafter.
10. The Village of Montgomery, New York does not have an “Approved Pretreatment Program” within the meaning of 40 C.F.R. §403.3(d). The State of New York is not approved to operate a State pretreatment program in New York in accordance with 40 C.F.R. §403.10. Therefore, pursuant to 40 C.F.R. §403.12(a), EPA, which is the Approval Authority, is the “Control Authority.”
11. On October 28, 2013, EPA issued the Respondent, Richard E. Meyer & Sons, Inc., an Administrative Order, Docket No. CWA-02-2014-3006, for failure to submit the Periodic Report to EPA by June 30, 2013. The Order stated that “the Respondent shall submit a copy of the Periodic Report due by June 30, 2013, as required by 40 C.F.R. 403.12(e), as well as an explanation as to why the report was late, to this office within fifteen (15) days of receipt of this ORDER.”
12. By letter, dated November 1, 2013 and received by EPA on November 7, 2013, Respondent confirmed that it failed to submit the Periodic Report by June 30, 2013.
13. On December 17, 2013, EPA received the Periodic Report which was submitted as an attachment to a letter from the Respondent dated December 12, 2013. EPA reviewed the report and determined that Respondent exceeded its daily maximum limit of 24 mg/l for Sulfide with the result of 71 mg/l for the sample collected on November 22, 2013. Respondent also failed to notify EPA within 24 hours of becoming aware of the violation and failed to repeat sampling and analysis for Sulfide and submit the results of the repeat analysis to EPA within 30 days after becoming aware of the violation.

14. Respondent failed to submit Pretreatment Standard results for pH for the year 2013 as required by 40 C.F.R. §403.12 and §425.35 and failed to submit certification as required by 40 C.F.R. 403.12(b)(6).
15. Based upon the Paragraphs above, Richard E. Meyer & Sons, Inc. has violated federal pretreatment requirements in violation of the Act and its implementing regulations. Respondent is in violation of Sections 307 and 308 of the Act for failing to meet the General Pretreatment Regulations. Specifically, Richard E. Meyer & Sons, Inc. violated the requirements at 40 C.F.R. §403.12(e) by failing to submit the required Periodic Report on Continued Compliance. Additionally, Respondent failed to comply with the daily maximum limit for Sulfide and failed to sample for pH as required by 40 C.F.R. §425.35. Thus, based on the Findings cited above, Richard E. Meyer & Sons, Inc. is in violation of Sections 307 and 308 of the Act, 33 U.S.C. §§1317 and 1318, and the Respondent is liable for the administrative assessment of civil penalties in an amount not to exceed \$16,000 per violation, up to a maximum of \$37,500.

#### **IV. Notice of Proposed Order Assessing a Civil Penalty**

Based on the foregoing Findings of Violation, and pursuant to the authority of Section 309(g) of the Act, 33 U.S.C. §1319(g), and the Debt Collection Improvement Act of 1996, EPA, Region 2 hereby proposes to issue a Final Order Assessing Administrative Penalties ("Final Order") to Respondent assessing penalty of **\$12,000**. EPA determined the proposed penalty after taking into account the applicable factors identified at Section 309(g)(3) of the Act, 33 U.S.C. §1319(g)(3). EPA has taken account of the nature, circumstances, extent and gravity of the violation (or violations), and Respondent's prior compliance history, degree of culpability, economic benefit or savings accruing to Respondent by virtue of the violations, and Respondent's ability to pay the proposed penalty. Based on the Findings set forth above, the Respondent has been found to have violated the Act in one (1) instance. EPA may issue the Final Order Assessing Administrative Penalties thirty (30) days after Respondent's receipt of this Notice, unless Respondent files an Answer to the Complaint within that time and requests a Hearing on this Notice pursuant to the following section.

#### **V. Procedures Governing This Administrative Action**

The rules of procedure governing this civil administrative litigation have been set forth in the CROP, 40 C.F.R. Part 22. A copy of these rules accompanies this Complaint.

##### **A. Answering The Complaint**

Where Respondent intends to contest any material fact upon which the Complaint is based, to contend that the proposed penalty is inappropriate or to contend that Respondent is entitled to judgment as a matter of law, Respondent must file with the Regional Hearing Clerk of EPA, Region 2, both an original and one copy of a written Answer to the Complaint, and such Answer must be filed within thirty (30) days after service of the Complaint. 40 C.F.R. §22.15(a). The address of the Regional Hearing Clerk of EPA, Region 2, is:

**Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 16th floor  
New York, NY 10007-1866**

Respondent shall also then serve one copy of the Answer to the Complaint upon Complainant and any other party to the action. 40 C.F.R. §22.15(a). Respondent's Answer to the Complaint must clearly and directly admit, deny, or explain each of the factual allegations that are contained in the Complaint and with regard to which the Respondent has any knowledge. 40 C.F.R. §22.15(b). Where Respondent lacks knowledge of a particular factual allegation and so states in the Answer, the allegation is deemed denied. 40 C.F.R. §22.15(b). The Answer shall also set forth: (1) the circumstances or arguments that are alleged to constitute the grounds of defense, (2) the facts that Respondent disputes (and thus intend to place at issue in the proceeding), (3) the basis for opposing the proposed relief and (4) whether Respondent requests a Hearing. 40 C.F.R. §22.15(b).

Respondent's failure to affirmatively raise in the Answer facts that constitute or that might constitute the grounds of a defense may preclude Respondent, at a subsequent stage in this proceeding, from raising such facts and/or from having such facts admitted into evidence at a Hearing.

### **B. Opportunity to Request a Hearing**

If requested by Respondent in its Answer, a Hearing upon the issues raised by the Complaint and Answer may be held. 40 C.F.R. §22.15(c). If however, Respondent does not request a Hearing, the Presiding Officer (as defined in 40 C.F.R. §22.3) may hold a Hearing if the Answer raises issues appropriate for adjudication. 40 C.F.R. §22.15(c).

Any Hearing in this proceeding will be held at a location determined in accordance with 40 C.F.R. §22.21(d). A Hearing of this matter will be conducted in accordance with the applicable provisions of the Administrative Procedure Act, 5 U.S.C. §§551-59, and the procedures set forth in Subpart D of the CROP, at 40 C.F.R. §§22.21-22.26.

Should Respondent request a Hearing on this proposed penalty assessment, members of the public to whom EPA is obligated to give notice of this proposed action, will have a right under Section 309(g)(4)(B) of the Act, 33 U.S.C. §1319(g)(4)(B), to be heard and to present evidence on the appropriateness of the penalty assessment. Should Respondent not request a Hearing, EPA will issue a Final Order, and only members of the public who submit timely comment on this proposal will have an additional thirty (30) days to petition EPA to set aside the Final Order and to hold a Hearing thereon. EPA will grant the petition and will hold a Hearing only if the petitioner's evidence is material and was not considered by EPA in the issuance of the Final Order.

### **C. Failure to Answer**

If Respondent fails in any Answer to admit, deny, or explain any material factual allegation contained in the Complaint, such failure constitutes an admission of the allegation. 40 C.F.R. §22.15(d). If Respondent fails to file a timely Answer to the Complaint [i.e. not in accordance with the 30-day period set forth in 40 C.F.R. §22.15(a)], Respondent may be found in default upon motion. 40 C.F.R. §22.17(a). Default by Respondent constitutes, for purposes of the pending proceeding only, an admission of all facts alleged in the Complaint and a waiver of Respondent's right to contest such factual allegations. 40 C.F.R. §22.17(a). Following a default by Respondent for a failure to timely file an Answer to the Complaint, any order issued therefore shall be issued pursuant to 40 C.F.R. §22.17(c).

Any penalty assessed in the default order shall become due and payable by Respondent without further proceedings thirty (30) days after the Default Order becomes final pursuant to 40 C.F.R. §22.27(c). 40 C.F.R. §22.17(d). If necessary, EPA may then seek to enforce such Final Order of Default against Respondent, and to collect the assessed penalty amount, in federal court.

## **VI. INFORMAL SETTLEMENT CONFERENCE**

Regardless of whether Respondent requests a formal Hearing, EPA encourages settlement of this proceeding consistent with the provisions of the Act and its applicable regulations. 40 C.F.R. §22.18(b). At an informal conference with a representative(s) of Complainant, Respondent may comment on the charges made in this Complaint and Respondent may also provide whatever additional information it believes to be relevant to the disposition of this matter, including: (1) actions Respondent has taken to correct any or all of the violations herein alleged, (2) any information relevant to Complainant's calculation of the proposed penalty, (3) the effect the proposed penalty would have on Respondent's ability to continue in business and/or (4) any other special facts or circumstances Respondent wishes to raise.

Complainant has the authority to modify the amount of the proposed penalty, where appropriate, in response to any relevant information previously not known to Complainant that demonstrates that any of the findings herein are without merit, or that the proposed penalty is not warranted. Respondent is referred to 40 C.F.R. §22.18.

Any request for an informal conference or any questions that Respondent may have regarding this Complaint should be directed to:

Kara Murphy, Esq.  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 16th Floor  
New York, NY 10007-1866  
Telephone (212) 637-3211

The parties may engage in settlement discussions regardless of whether Respondent has requested a Hearing. 40 C.F.R. §22.18(b)(1). Respondent's requesting a formal Hearing does not prevent Respondent from also requesting an informal settlement conference; the informal conference procedure may be pursued simultaneously with the formal adjudicatory hearing procedure. A request for an informal settlement conference constitutes neither an admission nor a denial of any of the matters alleged in the Complaint.

A request for an informal settlement conference does not affect Respondent's obligation to file a timely Answer to the Complaint pursuant to 40 C.F.R. §22.15. Note that no penalty reduction will be made simply because an informal settlement conference is held.

Any settlement that may be reached as a result of an informal settlement conference shall be embodied in a written Consent Agreement. 40 C.F.R. §22.18(b)(2). In accepting the Consent Agreement, Respondent waives any right to contest the allegations in the Complaint and waives any right to appeal the Final Order that is to accompany the Consent Agreement. 40 C.F.R. §22.18(b)(2). In order to



conclude the proceeding, a Final Order ratifying the parties' agreement to settle will be executed. 40 C.F.R. §22.18(b)(3).

Entering into a settlement through the signing of such Consent Agreement and complying with the terms and conditions set forth in such Consent Agreement and Final Order terminates this administrative litigation and these civil proceedings against Respondent (note that a new enforcement action may be initiated based on continued non-compliance). Entering into a settlement agreement does not extinguish, waive, satisfy or otherwise affect Respondent's obligation and responsibility to comply with all applicable statutory and regulatory requirements, and to maintain such compliance.

## **VII. RESOLUTION OF THIS PROCEEDING WITHOUT HEARING OR CONFERENCE**

Instead of filing an Answer, Respondent may choose to pay the total amount of the proposed penalty, **\$12,000**, within 30 days after receipt of the Complaint, provided that Respondent files with the Regional Hearing Clerk, Region 2 (at the address noted above), a copy of the check or other instrument of payment. 40 C.F.R. §22.18(a). A copy of the check or other instrument of payment should be provided to the EPA Attorney identified in Section VI above. Payment of the penalty assessed should be made by sending a cashier's or certified check payable to the "Treasurer, United States of America", in the full amount of the penalty assessed in this Complaint to the following addressee:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000  
Docket No. CWA-02-2014-3302

Wire transfers should be directed to the Federal Reserve Bank of New York

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".

Pursuant to 40 C.F.R. §22.18(a)(3), if Respondent elects to pay the full amount of the penalty proposed in the Complaint within thirty (30) days of receiving the Complaint, then, upon EPA's receipt of such payment, the Regional Administrator of EPA, Region 2 (or, if designated, the Regional Judicial Officer), shall issue a Final Order pursuant to 40 C.F.R. §22.18(a)(3). In accordance with 40 C.F.R. §22.45(c)(3), no Final Order shall be issued until at least ten (10) days after the close of the comment period on this Complaint. Issuance of a Final Order terminates this administrative litigation and the civil proceedings arising out of the allegations made in the Complaint (note that a new enforcement action may be initiated based on continued non-compliance). Further, pursuant to 40 C.F.R. §22.18(a)(3), the making of such payment by Respondent shall constitute a waiver of Respondent's

right both to contest the allegations made in the Complaint and to appeal said Final Order to federal court. Such payment does not extinguish, waive, satisfy or otherwise affect Respondent's obligation and responsibility to comply with all applicable statutory and regulatory requirements, and to maintain such compliance.

### **VIII. Filing of Documents**

The Answer and any Hearing Request and all subsequent documents filed in this action should be sent to:

Regional Hearing Clerk  
U.S. Environmental Protection Agency  
290 Broadway - 16th Floor (Room 1631)  
New York, New York 10007-1866

A copy of the Answer, any Hearing Request and all subsequent documents filed in this action shall be sent to:

Kara E. Murphy Esq., Assistant Regional Counsel  
Office of Regional Counsel  
U.S. Environmental Protection Agency  
290 Broadway - 16<sup>th</sup> Floor  
New York, New York 10007  
(212) 637-3211

### **IX. General Provisions**

1. Respondent has a right to be represented by an attorney at any stage of these proceedings.
2. This Complaint does not constitute a waiver, suspension or modification of the requirements of the Act, regulations promulgated there under, or any applicable permit.
3. Neither assessment nor payment of an administrative civil penalty pursuant to Section 309(g) of the Act, 33 U.S.C. §1319(g), will affect Respondent's continuing obligation to comply with the Act, and with any separate Compliance Order issued under Section 309(a) of the Act, 33 U.S.C. §1319(a), for the violations alleged herein.

ISSUED THIS 11<sup>th</sup> DAY OF APRIL, 2014.

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Dore LaPosta, Director  
Division of Enforcement and Compliance Assistance  
U.S. EPA - Region 2  
290 Broadway  
New York, New York 10007-1866

To: Karl R. Meyer, President  
Richard E. Meyer & Sons, Inc.  
11 Factory Street  
P.O. Box 307  
Montgomery, New York 12549

**CWA-02-2014-3302**

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
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**Docket No. CWA-02-2014-3302**

**CERTIFICATE OF SERVICE**

I certify that, on the date noted below, I caused to be mailed, by certified mail, return receipt requested, a copy of the foregoing "ADMINISTRATIVE COMPLAINT" and a copy 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. Part 22 (July 1, 2000) to the following persons at the addresses listed below:

Mr. Karl R. Meyer, President  
Richard E. Meyer & Sons, Inc.  
11 Factory Street  
P.O. Box 307  
Montgomery, New York 12549

Mr. Joseph DiMura, P.E., Director  
Bureau of Water Compliance Programs  
Division of Water  
New York State Department of Environmental Conservation  
625 Broadway  
Albany, New York 12233-3506

I hand carried the original and a copy of the foregoing Complaint to the Office of the Regional Hearing Clerk, United States Environmental Protection Agency, Region 2.

Date: 04/15/14  
New York, New York

  
[Signature of Sender]  
[NOTE: must be over 18]