

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

In the Matter of:)	
)	
Ryder Truck Rental, Inc. 11690 NW 105 Street Miami, FL 33178)	Docket No.: RCRA-03-2014-0059
)	
RESPONDENT,)	Proceeding Under Section 9006 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6991e
)	
Ryder Truck Rental 6605 Governor Printz Boulevard Wilmington, DE 19809)	CONSENT AGREEMENT
)	
FACILITY.)	

RECEIVED
 2014 MAR 14 AM 10:16
 REGIONAL HEARING CLERK
 EPA REGION III, PHILA. PA

CONSENT AGREEMENT

This Consent Agreement (“CA”) is entered into by the Director, Land and Chemicals Division, U.S. Environmental Protection Agency, Region III (“EPA” or “Complainant”) and Ryder Truck Rental, Inc. (“Respondent”), pursuant to Section 9006 of the Resource Conservation and Recovery Act (“RCRA”), as amended, 42 U.S.C. § 6991e, 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 Final Order (collectively “CAFO”) resolve alleged violations of RCRA Subtitle I, 42 U.S.C. §§ 6991-6991m and the State of Delaware’s federally authorized underground storage tank program by Respondent, in connection with underground storage tank systems at the Ryder Truck Rental facility located at 6605 Governor Printz Boulevard in Wilmington, Delaware (“Facility”).

Effective October 28, 1996, pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991c, and 40 C.F.R. Part 281, the State of Delaware was granted final authorization to administer a state UST management program (“Delaware UST management program”) *in lieu* of the Federal UST management program established under Subtitle I of RCRA, 42 U.S.C. §§ 6991-6991m. The provisions of the Delaware UST management program as finally authorized are enforceable by EPA pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e. The Delaware UST management program regulations are set forth in the Delaware Administrative Code, Title 7, Department of Natural Resources and Environmental Control (“DNREC”), Division of Waste and Hazardous Substances, Tank Management Section, Reg. No. 1351.

Section 9006(d)(2)(B) of RCRA, 42 U.S.C. § 6991e(d)(2)(B), authorizes EPA to assess a civil penalty against any owner or operator of an underground storage tank who fails to comply with any requirement or standard of a State underground storage tank program that has been approved by EPA pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991c.

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 ("FO"), or the enforcement of the CAFO.
4. For the purposes of this proceeding only, Respondent hereby expressly waives its right to a hearing on any issue of law or fact set forth in this CA and any right to appeal the accompanying FO.
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. The person signing this CA on behalf of the Respondent certifies to EPA by his or her signature herein that Respondent, as of the date of this CA, is in compliance with the provisions of RCRA, Subtitle I, 42 U.S.C. §§ 6991-6991m, and the State of Delaware's federally authorized underground storage tank program at the Facility referenced herein.
8. The provisions of this CAFO shall be binding upon Respondent, and 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 RCRA Subtitle I, 42 U.S.C. §§ 6991-6991m, or of any regulations promulgated or authorized thereunder.
10. Complainant shall have the right to institute further actions to recover appropriate relief if Complainant obtains evidence that the information provided and/or representations made

by Respondent to EPA regarding matters at issue in the CAFO are false or, in any material respect, inaccurate. Respondent is aware that the submission of false or misleading information to the United States government may subject Respondent to separate civil and/or criminal liability.

11. Respondent agrees not to deduct for civil taxation purposes the civil penalty specified in this Consent Agreement and the attached Final Order.
12. EPA has given the State of Delaware prior notice of the issuance of this CAFO in accordance with Section 9006(a)(2) of RCRA, 42 U.S.C. § 6991e(a)(2).

FACTUAL ALLEGATIONS AND CONCLUSIONS OF LAW

13. EPA has jurisdiction over this matter pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e, and 40 C.F.R. § 22.1(a)(4).
14. At all times relevant to this CAFO, Respondent has been a firm, joint stock company, corporation, association or commercial entity.
15. Respondent is a “person” as defined in Section 9001(5) of RCRA, 42 U.S.C. § 6991(5), and Delaware Administrative Code, Title 7, Reg. No. 1351, Part A: § 2.
16. At all times relevant to this CAFO, Respondent has been the “operator” and/or “owner”, as those terms are defined in Section 9001(3) and (4) of RCRA, 42 U.S.C. § 6991(3) and (4), and Delaware Administrative Code, Title 7, Reg. No. 1351, Part A: § 2, of “underground storage tank(s) and “underground storage tank system(s)” as those terms are defined in Section 9001(10) of RCRA, 42 U.S.C. § 6991(10), and Delaware Administrative Code, Title 7, Reg. No. 1351, Part A: § 2, at the Ryder Truck Rental facility located at 6605 Governor Printz Boulevard in Wilmington, Delaware (“Facility”).
17. The underground storage tank systems referenced immediately above include two (2) 12,000 gallon diesel underground storage tanks that were installed in 1988, which are “new tanks” and “petroleum UST system(s)”, as those terms are defined in Section 9001(6) of RCRA, 42 U.S.C. § 6991(6), and Delaware Administrative Code, Title 7, Reg. No. 1351, Part A: § 2.
18. On April 3, 2012, EPA representatives conducted an inspection at the Facility pursuant to Section 9005 of RCRA, 42 U.S.C. § 6991d.
19. Pursuant to RCRA Section 9005, 42 U.S.C. § 6991d, EPA issued Information Request letters to Respondent on July 2, 2012 and May 6, 2013 concerning the petroleum UST systems at its Facility.

COUNT I - FAILURE TO CONDUCT RELEASE DETECTION FOR TANKS

20. Paragraphs 1 through 19, above, are incorporated by reference as if fully set forth herein.
21. Pursuant to Delaware Administrative Code, Title 7, Reg. No. 1351, Part B: § 1.08, owners and operators of new petroleum underground storage tanks are required to provide a means of monitoring for releases, consisting of inventory control procedures and record keeping as described in DNREC, Reg. No. 1351, Part A: § 8.02; and one or more of the methods described in DNREC, Reg. No. 1351, Part B: § 1.08.A.(2).
22. Respondent failed to monitor its two diesel underground storage tanks for releases, employing inventory control and any of the allowable methods with conclusive results, during the following time frames:
 - i. 03/01/2009 through 04/30/2009,
 - ii. 01/01/2010 through 01/29/2010 ,
 - iii. 08/01/2010 through 08/30/2010 ,
 - iv. 03/03/2011 through 03/30/2011, and
 - v. 03/03/2012 through 04/28/2012.
23. Respondent's act and/or omission as alleged in Paragraph 22, above, constitute violations by Respondent of Delaware Administrative Code, Title 7, Reg. No. 1351, Part B: § 1.08.

COUNT II - FAILURE TO CONDUCT ANNUAL LINE LEAK DETECTOR TESTING

24. Paragraphs 1 through 23, above, are incorporated by reference as if fully set forth herein.
25. At all times relevant to this CAFO, the piping associated with the petroleum UST systems described in Paragraph 17, above, routinely contained "regulated substance(s)", as such term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and Delaware Administrative Code, Title 7, Reg. No. 1351, Part A: § 2, was designed to convey such regulated substances under pressure, and was equipped with a mechanical line leak detector.
26. Pursuant to Delaware Administrative Code, Title 7, Reg. No. 1351, Part B: § 1.09.A.(3)., owners and operators of new petroleum UST piping routinely containing regulated substances conveyed under pressure are required to conduct an annual test of the operation of the automatic line leak detector in accordance with manufacturer's specifications.
28. Respondent failed to conduct annual operational testing of the automatic line leak detector on the pressurized piping associated with the petroleum UST systems described in paragraph 17, above, from September 28, 2011 through August 3, 2012.

29. Respondent's acts and/or omissions as alleged in Paragraph 28, above, constitute violations by Respondent of Delaware Administrative Code, Title 7, Reg. No. 1351, Part B: § 1.09.A.(3).

COUNT III- FAILURE TO TIMELY RESPOND TO SUSPECTED RELEASES

30. Paragraphs 1 through 29, above, are incorporated by reference as if fully set forth herein.
31. Pursuant to Delaware Administrative Code, Title 7, Reg. No. 1351, Part A: § 8.06, owners and operators of underground storage tanks must report any suspected release to DNREC within 24 hours.
32. Respondent failed to report to DNREC when tank monitoring results from February 2009 through September 29, 2009 constituted *prima facie* evidence of a suspected release.
33. Respondent's acts and/or omissions as alleged in Paragraph 32, above, constitute violations by Delaware Administrative Code, Title 7, Reg. No. 1351, Part A: § 8.06.

CIVIL PENALTY

34. In settlement of Complainant's claims for civil penalties for the violations alleged in this CA, Respondent agrees to pay a civil penalty in the amount of twenty two thousand five hundred dollars (\$22,500). The civil penalty amount is due and payable immediately upon Respondent's receipt of a true and correct copy of this CAFO. If Respondent pays the entire civil penalty of twenty two thousand five hundred dollars (\$22,500) within thirty (30) calendar days of the date on which this CAFO is mailed or hand-delivered to Respondent, no interest will be assessed against Respondent pursuant to 40 C.F.R. § 13.11(a)(1).
35. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest, administrative costs and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below.
36. In accordance with 40 C.F.R. § 13.11(a)(1), interest on any civil penalty assessed in a CAFO begins to accrue on the date that a copy of the CAFO is mailed or hand-delivered to the Respondent. However, EPA will not seek to recover interest on any amount of such civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a)(3).
37. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b).

Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.

38. A late payment penalty of six percent per year will be assessed monthly on any portion of a civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on a debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
39. The aforesaid settlement amount was based upon Complainant's consideration of 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 Section 9006(c) of RCRA, 42 U.S.C. § 6991e(c), and with EPA's Penalty Guidance for Violations of UST Regulations ("UST Guidance") dated November 4, 1990.
40. Respondent shall pay the amount described in Paragraph 34, above, by sending a certified or cashier's check payable to the "United States Treasury," as follows:

a. Mailing (*via first class U.S. Postal Service Mail*) a certified or cashier's check, made payable to the "United States Treasury" to the following address

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

Contact: Craig Steffen 513-487-2091
Molly Williams 513-487-2076

b. Via Overnight Delivery of a certified or cashier's check, made payable to the "United States Treasury", sent to the following address:

U.S. Bank
Government Lockbox 979077
US EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101
314-418-1028

c. All payment made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance
US EPA, MS-NWD
26 W. M.L. King Drive
Cincinnati, OH 45268-0001

d. By electronic funds transfer ("EFT") to the following account:

Federal Reserve Bank of New York
ABA 021030004
Account No. 68010727
SWIFT Address FRNYUS33
33 Liberty Street
NY, NY 10045
(Field tag 4200 of Fedwire message should read "D
68010727 Environmental Protection Agency")

e. By automatic clearinghouse ("ACH") to the following account:

U.S. Treasury REX/Cashlink ACH Receiver
ABA 051036706
Account No. 310006
Environmental Protection Agency
CTX Format
Transaction Code 22 - checking

Contact: John Schmid
202-874-7026

f. Online payments can be made at WWW.PAY.GOV by entering "sfo 1.1" in the search field, and opening the form and completing the required fields.

g. Additional payment guidance is available at:

http://www.epa.gov/ocfo/finservices/make_a_payment.htm

All payments shall also reference the above case caption and docket number, DOCKET NO.: RCRA-03-2014-0059. At the same time that any payment is made, Respondent shall mail copies of any corresponding check, or provide written notification confirming

any electronic wire transfer, automated clearinghouse or online payment to Lydia A. Guy, Regional Hearing Clerk (3RC00), U.S. EPA, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029 and to Stephen Forostiak (3LC70), U.S. Environmental Protection Agency, Region III, Office of Land Enforcement, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029.

FULL AND FINAL SATISFACTION

41. This CAFO constitutes a settlement by EPA of its claims for civil penalties pursuant to 9006(a) of RCRA, 42 U.S.C. § 6991e(a), for the violations alleged in this Consent Agreement.

RESERVATION OF RIGHTS

42. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its filing with the Regional Hearing Clerk.

OTHER APPLICABLE LAWS

43. Nothing in this CAFO shall relieve Respondent of any duties otherwise imposed on it by applicable federal, state or local law and/or regulations.

AUTHORITY TO BIND THE PARTIES

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

ENTIRE AGREEMENT

45. This Consent Agreement and the attached Final Order constitute the entire agreement and understanding of the parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Consent Agreement and the attached Final Order.

EFFECTIVE DATE

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

For Respondent: Ryder Truck Rental, Inc.

1/30/2014
Date

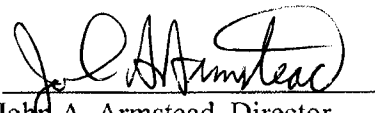
Nancy Tellam, Group Director
Environmental Services & Sustainability Ryder System, Inc.
Nanci

For Complainant: U.S. Environmental Protection Agency, Region III

1/31/2014
Date

Jennifer M. Abramson
Senior Assistant Regional Counsel

After reviewing the foregoing Consent Agreement and other pertinent information, the Land and Chemicals Division, EPA Region III, recommends that the Regional Administrator or the Regional Judicial Officer issue the Final Order attached hereto.

2.11.14
Date

John A. Armstead, Director,
Land and Chemicals Division, EPA Region III

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

In the Matter of:

Ryder Truck Rental, Inc.
11690 NW 105 Street
Miami, FL 33178

RESPONDENT,

Ryder Truck Rental
6605 Governor Printz Boulevard
Wilmington, DE 19809

FACILITY.

)
) Docket No.: RCRA-03-2014-0059
)
) Proceeding Under Section 9006 of the
) Resource Conservation and Recovery
) Act, as amended, 42 U.S.C. Section
) 6991e
)
) **FINAL ORDER**
)
)
)

REGIONAL HEARING CLERK
 REGION III, PHILA. PA
 2014 MAR 14 AM 10:16

RECEIVED

FINAL ORDER


Complainant, the Director, Land and Chemicals Division, U.S. Environmental Protection Agency - Region III, and Respondent, Ryder Truck Rental, Inc., 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. The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated herein as if set forth at length.

NOW, THEREFORE, PURSUANT TO Section 22.18(b)(3) of the *Consolidated Rules of Practice* and Section 9006(c) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6991e(c) ("RCRA"), and having determined, based on the representations of the parties in the attached Consent Agreement, that the civil penalty agreed to therein was based upon a consideration of the factors set forth in Section 9006(c) of RCRA, 42 U.S.C. § 6991e(c), **IT IS**

HEREBY ORDERED that Respondent pay a civil penalty of twenty two thousand five hundred dollars (\$22,500) in accordance with the payment provisions set forth in the attached Consent Agreement, and comply with each of the additional terms and conditions as specified in the attached Consent Agreement.

The effective date of this Final Order and the accompanying Consent Agreement is the date on which the Final Order, signed by the Regional Administrator of U.S. EPA Region III or the Regional Judicial Officer, is filed with the Regional Hearing Clerk of U.S. EPA - Region III.

Date: 3/13/14


Renée Sarajian
Regional Judicial Officer
U.S. EPA, Region III

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

In the Matter of:)
)
Ryder Truck Rental, Inc.) Docket No.: RCRA-03-2014-0059
11690 NW 105 Street)
Miami, FL 33178)
)
RESPONDENT,)
)
Ryder Truck Rental)
6605 Governor Printz Boulevard)
Wilmington, DE 19809)
)
FACILITY.)

REGIONAL HEARING CLERK
EPA REGION III, PHILA. PA

2014 MAR 14 AM 10:16

RECEIVED

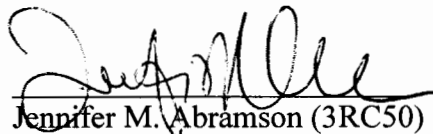
CERTIFICATE OF SERVICE

I certify that the foregoing CONSENT AGREEMENT AND FINAL ORDER in the above referenced matter was sent this day in the following manner to the below addressees.

Original and one copy by hand-delivery: Lydia Guy, Regional Hearing Clerk

Copy by Certified Mail: Nanci Tellam, Ryder Truck Rental, Inc., 11690 NW 105 Street
Miami, FL 33178

3/14/13
Date


Jennifer M. Abramson (3RC50)
Senior Assistant Regional Counsel
U.S. EPA, Region III

*Printed on 100% recycled/recyclable paper with 100% post-consumer fiber and process chlorine free.
Customer Service Hotline: 1-800-438-2474*





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

In Reply Refer To Mail Code: 3RC50

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Nanci Tellam
Ryder Truck Rental, Inc.
11690 NW 105 Street
Miami, FL 33178

Re: Consent Agreement and Final Order
EPA Docket No.: RCRA-03-2014-0059

MAR 14 2014
REGIONAL HEARING CLERK
EPA REGION III, PHILA. PA
2014 MAR 14 AM 10:16

RECEIVED

Dear Ms. Tellam:

Enclosed is a copy of the CONSENT AGREEMENT AND FINAL ORDER filed today with the Regional Hearing Clerk settling the matter referenced above. For your file, I am also enclosing a copy of the supporting memorandum from Environmental Protection Agency management to the Regional Judicial Officer. Should you have any questions or concerns, please feel free to contact me at (215) 814-2066.

Sincerely,

Jennifer M. Abramson
Senior Assistant Regional Counsel

Enclosures

cc: Stephen Forostiak, EPA