



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

JUL 11 2012

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Article Number: 7005 3110 0000 5951 8885

Mr. Nadar Hanini, Owner  
International Used Auto Parts, Inc.  
449 Avenue P  
Newark, New Jersey 07105

Re: Notice of Proposed Assessment of a Civil Penalty Class I  
International Used Auto Parts, Inc.  
Docket No. CWA-02-2012-3307

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG. II  
2012 JUL 12 P 3:34  
REGIONAL HEARING  
CLERK

Dear Mr. Hanini:

Enclosed is a Complaint which the U.S. Environmental Protection Agency ("EPA" or "Agency") is issuing to you as a result of our determination that International Used Auto Parts, Inc. ("Respondent"), located at 449 Avenue P in Newark, New Jersey has violated Sections 301 and 402 of the Clean Water Act ("CWA" or "Act"), 33 U.S.C. §§1311 and 1342. This Complaint is filed pursuant to Section 309(g) of the Act, 33 U.S.C. §1319(g). Upon consideration of the factors in Section 309(g), the Complaint proposes that a penalty of **\$11,500** be assessed against International Used Auto Parts, Inc. for these violations.

You have the right to a hearing to contest the factual allegations in the Complaint. If you admit the allegations, or they are found to be true after you have had an opportunity for a hearing on them, you have the right to contest the penalty proposed in the Complaint. I have enclosed a copy of Consolidated Rules of Practice ("CROP"), found at 40 Code of Federal Regulations Part 22, which the EPA follows in cases of this kind. Please note the requirements for an Answer at Section 22.15 of the CROP. **If you wish to contest the allegations in the Complaint or the penalty proposed in the Complaint, you must file an Answer within thirty (30) days of your receipt of the enclosed Complaint to the EPA Regional Hearing Clerk at the following address:**

Karen Maples  
Regional Hearing Clerk  
U.S. Environmental Protection Agency  
290 Broadway, 16th Floor  
New York, New York 10007-1866

If you do not file an Answer within thirty (30) days of receipt of this Complaint, you may be judged to have defaulted (See, §22.17 of the CROP). If a default order is entered, the entire proposed penalty may be assessed without further proceedings.

Regardless of whether or not you request a formal hearing, EPA encourages you to pursue the possibility of settlement by requesting an informal conference with the Agency concerning the

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alleged violations and the amount of the proposed penalty. Please note that a request for an informal conference does not substitute for a written Answer, or affect what you may choose to say in an Answer, nor does it extend the thirty (30) day deadline by which you must file an Answer.

The Agency also encourages Respondents to propose and perform Supplemental Environmental Projects ("SEPs"), where appropriate, as part of any settlement. Enclosed is a copy of the Final EPA Supplemental Environmental Projects Policy (May 1, 1998) for your consideration.

You may represent yourself or be represented by an attorney at any stage of the proceedings, including any informal discussions and/or a formal hearing, whether in person or by telephone. Any hearing held in this matter will be conducted in accordance with the CROP.

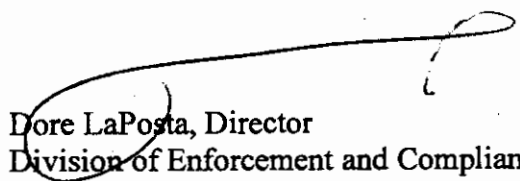
If you have any questions or wish to discuss a settlement of this matter with the EPA by an informal conference, please immediately contact:

Tim Murphy, Esq.  
Water & General Law Branch  
Office of Regional Counsel  
Division of Enforcement and Compliance Assistance  
U.S. Environmental Protection Agency  
290 Broadway - 16th Floor  
New York, New York 10007-1866  
(212) 637-3236

For your information, I am enclosing an Information Sheet which may be helpful if you are a small business as defined at 13 C.F.R. §121.201, in obtaining compliance assistance or if you wish to comment on this action to the Small Business and Agriculture Regulatory Enforcement Ombudsman and Regional Fairness Board.

Should you have any questions concerning this matter, please feel free to contact Mr. Tim Murphy at the phone number above or Ms. Justine Modigliani, Compliance Section Chief at (212) 637-4268.

Sincerely,

  
Dore LaPosta, Director  
Division of Enforcement and Compliance Assistance

Enclosures

1. Complaint
2. CROP
3. EPA Supplemental Environmental Projects Policy and SEP Brochure
4. Information for Small Business

cc: Marcedius T. Jameson, NJDEP

**bcc: Karen Maples, Regional Hearing Clerk (w/Complaint and enclosures)**  
**Doug McKenna, DECA-WCB**  
**Justine Modigliani, DECA-WCB**  
**Kimberly McEathron, DECA-WCB**  
**Tim Murphy, ORC-WGL**



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

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U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG. II  
2012 JUL 12 P 3 34  
REGIONAL HEARING  
CLERK

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

**Article Number: 7005 3110 0000 5951 8878**

Mr. Marcedius T. Jameson, Director  
Division of Water and Land Use Enforcement  
New Jersey Department of Environmental Protection  
Mail Code 401-04F  
401 East State Street  
P.O. Box 420  
Trenton, New Jersey 08625-0420

RE: Notice of Proposed Assessment of a Civil Penalty Class I  
International Used Auto Parts, Inc.  
Docket No. CWA-02-2012-3307

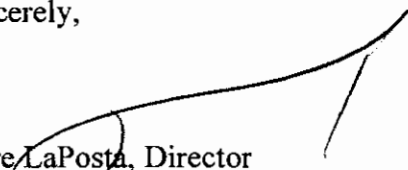
Dear Mr. Jameson:

Enclosed is a copy of the Complaint and Proposed Assessment of a Civil Penalty, which the United States Environmental Protection Agency (EPA) has issued to International Used Auto Parts, Inc. pursuant to §309(g) of the Clean Water Act (Act), 33 U.S.C. §1319(g). EPA has issued the Complaint to begin the process to administratively assess a civil penalty of \$11,500 against Respondent for violations of the Act.

Since the violations have occurred in the State of New Jersey, EPA is offering you an opportunity to confer with us regarding the proposed assessment. You may confer with me at (212) 637-4000.

A copy of 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 (40 C.F.R. Part 22), is enclosed for your reference.

Sincerely,

  
Dore LaPosta, Director  
Division of Enforcement and Compliance Assistance

Enclosures

1. Complaint
2. CRIP

bcc: Karen Maples, Regional Hearing Clerk (w/o enclosures)  
Kimberly McEathron (w/o enclosures)  
Justine Modigliani, DECA-WCB (w/o enclosures)  
Tim Murphy, ORC-WGL (w/o enclosures)

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

**IN THE MATTER OF:**

International Used Auto Parts, Inc.  
449 Avenue P  
Newark, New Jersey 07105

NJPDES Permit No. NJG0145637

**Respondent**

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

**PROCEEDING TO ASSESS A CLASS I  
CIVIL PENALTY**

**DOCKET No. CWA-02-2012-3307**

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG. II  
2012 JUL 12 P 3 34  
REGIONAL HEARING  
CLERK

**ADMINISTRATIVE COMPLAINT  
FINDINGS OF VIOLATION, NOTICE OF PROPOSED  
ASSESSMENT OF AN ADMINISTRATIVE PENALTY, AND  
NOTICE OF OPPORTUNITY TO REQUEST A HEARING**

**I. STATUTORY AND REGULATORY AUTHORITIES**

1. This Administrative Complaint, Findings of Violation, Notice of Proposed Assessment of an Administrative 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” or “CWA”), 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 (2001), a copy of which is attached, Complainant hereby requests that the Regional Administrator assess a civil penalty against International Used Auto Parts, Inc. (“Respondent”), as a result of Complainant’s determination that the Respondent is in violation of Sections 301 and 402 of the Act, 33 U.S.C. §1311 and §1342, respectively, by failing to comply with the terms of the New Jersey Department of Environmental Protection’s (“NJDEP’s”) New Jersey Pollutant Discharge Elimination System (“NJPDES”) Scrap Metal Processing/Auto Recycling (SM2) General Stormwater Permit at a facility it owns and operates.

## **II. DEFINITIONS AND STATUTORY PROVISIONS**

1. Section 301(a) of the CWA, 33 U.S.C. §1311(a), prohibits the discharge of pollutants from a point source into waters of the United States, except in compliance with, *inter alia*, Section 402 of the CWA, 33 U.S.C. §1342.
2. Section 402(a)(1) of the CWA, 33 U.S.C. §1342(a)(1), provides that pollutants may be discharged only in accordance with the terms of a National Pollutant Discharge Elimination System (“NPDES”) permit issued pursuant to that Section.
3. Section 402 of the CWA, 33 U.S.C. §1342, authorizes the Administrator of EPA to issue a NPDES permit for the discharge of any pollutant, or combination of pollutants subject to certain requirements of the CWA and conditions which the Administrator determines are necessary. The New Jersey Department of Environmental Protection (“NJDEP”) is the agency with the authority to administer the federal NPDES program in New Jersey pursuant to Section 402 of the CWA, 33 U.S.C. §1342. EPA maintains concurrent enforcement authority with authorized states for violations of the CWA. Additionally, under the authority granted to the NJDEP by the EPA under Section 402(b) of the CWA, 33 U.S.C. §1342(b), a New Jersey Pollutant Discharge Elimination System (“NJPDDES”) permit is required to be issued to facilities by the NJDEP for the discharge of pollutants from said facilities from a point source to a navigable water of the United States.
4. “Person” is defined by Section 502(5) of the CWA, 33 U.S.C. §1362(5), to include an individual, corporation, partnership, association or municipality.
5. “Pollutant” is defined by Section 502(6) of the CWA, 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.
6. “Navigable waters” is defined by Section 502(7) of the CWA, 33 U.S.C. §1362(7), to include the waters of the United States.
7. “Point source” is defined by Section 502(14) of the CWA, 33 U.S.C. §1362(14), to include any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.
8. “Discharge of a pollutant” is defined by Section 502(12) of the CWA, 33 U.S.C. §1362(12), to include any addition of any pollutant to navigable waters from any point source.
9. Section 402(p) of the CWA, 33 U.S.C. §1342(p), sets forth the requirements for municipal and industrial stormwater discharges.
10. The Administrator of EPA has promulgated regulations, 40 CFR §122.26(a)(1)(ii) and §122.26(b)(14), which require operators to obtain a NPDES permit for stormwater discharges associated with industrial activity. The regulations at 40 CFR §122.26(b)(14) establish requirements for stormwater discharges associated with industrial activity.

11. The terms "SM2 General Stormwater Permit" or "Permit" mean the NJPDES Scrap Metal Processing/Auto Recycling (SM2) General Stormwater Permit, as defined by the present general permit number NJ0107671. The current SM2 General Stormwater Permit became effective on February 1, 2005 and expired on February 1, 2010 but has been administratively extended.
12. The term "SPPP" means Stormwater Pollution Prevention Plan, as defined in the Permit.
13. The term "BMPs" means Best Management Practices, as defined in the Permit.
14. Part II.B.7.a of the Permit states that permittees are required to prepare, certify and implement a SPPP.
15. Part IV.E.1 of the Permit states that within eighteen (18) months of the Effective Date of Permit Authorization ("EDPA"), the permittee shall fully implement the SPPP prepared for the facility.
16. Part IV.F.1.a of the Permit states that after institution of the SPPP, evidence of uncontrolled discharges of fluids to the ground, such as sheens on effluent and excessive petroleum odors, shall be considered violations of this permit.
17. Part IV.F.2.d.ii of the Permit states that the vehicle processing area where fluids are drained shall be a bermed pad constructed of concrete or other impermeable material.
18. Part IV.F.2.f.iv of the Permit states that batteries stored outdoors shall be kept under cover, on an impervious surface.
19. Part IV.F.2.k.i of the Permit states that the drainage area of the concrete pad containing used engine blocks must drain into an oil water separator. As an alternative, engine blocks and transmissions may be stored in buildings or leak-proof containers.
20. Sections 309(a) of the CWA, 33 U.S.C. §1319(a), authorizes the Administrator to commence an administrative action for violations of Section 301 of the CWA, 33 U.S.C. §1311, or any permit condition or limitation implementing, inter alia, Section 301, and contained in a permit issued under Section 402 of the CWA, 33 U.S.C. §1342.

### **III. FINDINGS OF VIOLATION**

1. International Used Auto Parts, Inc. ("Respondent") is a "person" pursuant to Section 502(5) of the CWA, 33 U.S.C. §1362(5).
2. International Used Auto Parts, Inc. operates an automobile recycling facility where vehicles are dismantled and sold as parts or whole located at 440 Avenue P, in Newark, New Jersey ("Site" or "Facility") and conducts industrial activity under Standard Industrial Classification ("SIC") Code 5015 (Motor Vehicle Parts, Used).
3. At all relevant times, Respondent was the owner and operator of the Facility.
4. Stormwater from the Facility, including where used engines and transmissions are stored, discharges to a catch basin located on Avenue P east of the base of the garage, where



discharges then flow via the storm sewer into Newark Bay, a navigable water of the United States pursuant to Section 502(7) of the CWA, 33 U.S.C. §1362(7).

5. International Used Auto Parts, Inc. discharges stormwater associated with industrial activity, a “pollutant” within the meaning of Section 502(6) of the CWA, 33 U.S.C. §1362(6), via the above mentioned catch basin, “point sources” within the meaning of Section 502(14) of the CWA, 33 U.S.C. §1362(14), to a navigable water of the United States, and as such, discharges pollutants pursuant to Section 502(12) of the CWA, 33 U.S.C. §1362(12).
6. According to the Respondent’s Authorization to Discharge, the Facility’s Effective Date of Permit Authorization (“EDPA”) is September 1, 2003 when the facility obtained Permit coverage under the NJPDES SM2 General Stormwater Permit (Permit ID No. NJG0107034).
7. According to the Facility’s on-site records, the current version of the facility’s SPPP is dated revised April 2007.
8. On November 21, 2011, EPA inspectors conducted a Compliance Evaluation Inspection (“CEI”) at the Facility. At the time of the CEI, the EPA inspectors identified the following violations of the NJPDES SM2 General Stormwater Permit:
  - a. Part II.B.7.a of the Permit requires permittees to prepare, certify and implement a SPPP. Instances where the SPPP had not been implemented, in violation of Part II.B.7.a of the Permit include the following:
    - i. The SPPP states that spills are to be cleaned up immediately. EPA observed petroleum and anti-freeze spills throughout the facility that were not cleaned up immediately, in accordance with the SPPP; and
    - ii. The SPPP states that quarterly inspections will be conducted to evaluate the Facility’s compliance with the SPPP and the Permit.
      1. The SPPP contained three (3) quarterly inspections that were conducted and documented in 2009 (2/23/09, 6/25/09, 11/23/09), and not the four (4) required annually in accordance with the SPPP; and
      2. The SPPP contained three (3) quarterly inspections that were conducted and documented in 2010 (3/1/10, 7/15/10, 12/16/10), and not the four (4) required annually in accordance with the SPPP.
  - b. Part IV.F.1.a of the Permit states that after institution of the SPPP, evidence of uncontrolled discharges of fluids to the ground, such as sheens on effluent and excessive petroleum odors, shall be considered violations of this permit. EPA observed fluids on the ground, oil sheens on puddles, oil sheen on pooling liquids on and in the catch basin on Avenue P and excessive petroleum odors at the Facility, in violation of Part IV.F.1.a of the Permit.

- c. Part IV.F.2.d.ii of the Permit states that the vehicle processing area where fluids are drained shall be a bermed pad constructed of concrete or other impermeable material. EPA identified that the vehicle processing area where fluids are drained is not bermed, in violation of Part IV.F.2.d.ii of the Permit.
  - d. Part IV.F.2.f.iv of the Permit states that batteries stored outdoors shall be kept under cover, on an impervious surface. EPA identified a car battery being stored outdoors and not under cover, in violation of Part IV.F.2.f.iv of the Permit.
  - e. Part IV.F.2.k.i. of the Permit states that the drainage area of the concrete pad containing used engine blocks must drain into an oil water separator and that as an alternative, engine blocks and transmissions may be stored in buildings or leak-proof containers. EPA identified that the drainage area of the outdoor concrete pad containing used engine blocks and transmissions drains to a catch basin on Avenue P that does not contain an oil water separator, in violation of Part IV.F.2.k.i of the Permit.
9. On January 12, 2012, pursuant to Section 309 of the CWA, EPA issued an Administrative Order (“AO” or “Order”) (CWA-02-2012-3017), which directed Respondent to store all batteries under cover and on an impervious surface; fully implement the SPPP; store all engine blocks and transmissions in a building or leak-proof container; implement BMPs that prevent excessive fluid leaking and petroleum odors at the Facility; design, construct and implement a berm at the vehicle processing area; and update the SPPP to include the implemented BMPs and berm.
  10. Respondent submitted responses to EPA dated January 27, 2012, March 26, 2012 and April 16, 2012 that addressed all Ordered Provisions in the AO.
  11. Based on the Findings above, Respondent violated Sections 301 and 402 of the Act, 33 U.S.C. §§1311 and 1342.

#### **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 a penalty of **\$11,500**. 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 is liable for violations of the Act, one of which has continued for at least one hundred and forty-three (143) days**. 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 affirmatively to 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 40 C.F.R. Part 22.

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 is believed 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:

Tim Murphy, Esq.  
Water and General Law Branch  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 16th Floor  
New York, NY 10007-1866

Telephone (212) 637-3236

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 waive 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 **\$11,500** 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-02-2012-3307

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 in accordance with 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, Region 2  
290 Broadway, 16th Floor  
New York, NY 10007-1866

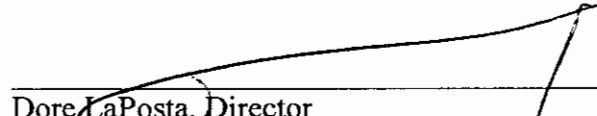
A copy of the Answer, any Hearing Request and all subsequent documents filed in this action shall be sent to:

Tim Murphy, Esq.  
Water and General Law Branch  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 16th Floor  
New York, NY 10007-1866  
Telephone (212) 637-3236  
Fax: (212) 637-3199

## 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 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 JULY, 2012.

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

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

**IN THE MATTER OF:**

International Used Auto Parts, Inc.  
449 Avenue P  
Newark, New Jersey 07105

NPDES Permit Number NJG0145637

**Respondent**

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

**PROCEEDING TO ASSESS A CLASS I CIVIL  
PENALTY**

**DOCKET No. CWA-02-2012-3307**

I certify that on JUL 12 2012, I served the foregoing fully executed Administrative Complaint, Findings of Violation, Notice of Proposed Assessment of an Administrative Penalty, and Notice of Opportunity to Request a Hearing, bearing the above referenced docket number, on the persons listed below, in the following manner:

Original and One Copy  
By Hand:

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

Copy by Certified Mail  
Return Receipt Requested:

Nadar Hanini, Owner  
International Used Auto Parts, Inc.  
449 Avenue P  
Newark, New Jersey 07105

Copy by Certified Mail  
Return Receipt Requested

Mr. Marcedius T. Jameson, Director  
Division of Water and Land Use Enforcement  
New Jersey Department of Environmental Protection  
Mail Code 401-04F  
401 East State Street  
P.O. Box 420  
Trenton, New Jersey 08625-0420

Dated: JUL 12 2012

  
\_\_\_\_\_  
NAME OF SECRETARY, Secretary  
New York, NY