



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

SEP 16 2015

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

David M. Jensen  
Lead Counsel  
Regulatory Affairs  
FedEx Corporation  
3620 Hacks Cross Road Building B  
Memphis, Tennessee 38125

Re: Expedited Settlement Agreement  
NRC No.: 110724  
Docket No.: CWA-04-2015-5003(b)

Dear Mr. Jensen:

This letter is to notify FedEx Corporation that the Expedited Settlement Agreement (ESA) for the above-referenced matter has been signed by the U.S. Environmental Protection Agency and became effective on the date of filing with the Regional Hearing Clerk, as required by 40 C.F.R. §§ 22.6 and 22.31, as indicated on the Certificate of Service. The ESA is binding on the EPA and FedEx Corporation. A copy of the ESA is enclosed.

Pursuant to the ESA, FedEx Corporation shall submit the payment of \$3,000 within thirty (30) days of receipt of this letter. Payment shall be made by cashier's check, certified check, by electronic funds transfer (EFT), or by Automated Clearing House (ACH) (also known as REX or remittance express). If paying by check, Respondent shall submit a cashier's check or certified check. The check shall bear the notation "OSLTF - 311" and Respondent shall reference the title and docket number of this case on the face of the check. The payment shall be made in one of the forms stated in Enclosure A. For additional payment information, see the EPA's payments webpage <http://www2.epa.gov/financial/makepayment>.

Pursuant to 40 C.F.R. § 22.31(c), you shall send a separate copy of the check or the other instrument of payment that you use and a written statement that the payment is being made in accordance with this ESA, to the persons at the following addresses:

Ms. Patricia Bullock  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street SW  
Atlanta, Georgia 30303-8960

And to:

William Joyner  
Senior Enforcement Officer / Inspector  
Enforcement and Compliance Branch  
Resource Conservation and Restoration Division  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street SW  
Atlanta, Georgia 30303-8960

If you have any questions, please contact William Joyner at (404) 562-8795.

Sincerely,

A handwritten signature in black ink, appearing to read 'César A. Zapata' with a stylized flourish at the end.

César A. Zapata  
Chief, Enforcement and Compliance Branch  
Resource Conservation and Restoration Division

Enclosures

cc: United States Coast Guard

## ENCLOSURE A

### COLLECTION INFORMATION

**Address for payment by certified or cashier's check sent by U.S. Postal Service:**

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

**Address for payment by certified or cashier's check sent by non-U.S. Postal express mail:**

U.S. Bank  
Government Lockbox 979077  
U.S. EPA Fines & Penalties  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, MO 63101  
(314) 481-1028

**Electronic Funds Transfer payment:**

Wire transfers to the EPA can be done through the Federal Reserve Bank of New York using the following information:

ABA: 021030004

Account Number: 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"

**Automated Clearinghouse Payments (also known as REX or remittance express):**

Automated Clearinghouse payments to EPA can be made through the US Treasury using the following information:

US Treasury REX/Cashlink ACH Receiver

ABA: 051036706

Account Number: 310006, Environmental Protection Agency

CTX Format Transaction Code 22 – checking

Physical location of US Treasury Facility:

5700 Rivertech Court

Riverdale, MD 20737

US Treasury Contact Information:

1-866-234-5681



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
61 FORSYTH STREET, ATLANTA, GEORGIA 30303**

**OIL SPILL EXPEDITED SETTLEMENT AGREEMENT**

DOCKET NO.: CWA-04-2015-5003(b)

On February 2, 2015, at the Memphis International Airport, located at 3050 Winchester Road Memphis, Tennessee, FedEx Corporation (Respondent) discharged approximately 1,000 gallons of oil in violation of the Clean Water Act (CWA) § 311(b)(3), 33 U.S.C. § 1321(b)(3), as described on the attached "Findings and Alleged Violations Form" (Form), which is hereby incorporated by reference.

The United States Environmental Protection Agency finds that Respondent's conduct is subject to the discharge prohibition of CWA § 311(b)(3), 33 U.S.C. § 1321(b)(3) in conjunction with 40 C.F.R. § 110.3. Respondent admits being subject to CWA § 311(b)(3), and that the EPA has jurisdiction over Respondent and Respondent's conduct as described in the Form. Respondent neither admits nor denies the allegations in the Form.

The EPA is authorized to enter into this Expedited Settlement Agreement (ESA) under the authority vested in the Administrator of the EPA CWA § 311(b)(6)(B)(i), 33 U.S.C. § 1321(b)(6)(B)(i), as amended by the Oil Pollution Act of 1990, and by 40 C.F.R. § 22.13(b) and § 22.18(b)(2)-(3). The parties enter into this ESA in order to settle the civil violation described in the Form for a penalty of \$3,000. Respondent consents to the assessment of this penalty.

This ESA is also subject to the following terms and conditions: Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that it has investigated the cause of the spill, it has cleaned up the spill pursuant to federal requirements, and it has taken corrective actions that will prevent future spills. Respondent, also by signature on this ESA, agrees to pay the penalty assessed within thirty (30) calendar days of receiving written notice that the ESA has been executed and effective. **Do not enclose payment.** The EPA will provide instructions in writing on the procedures for making the penalty payment to the "Oil Spill Liability Trust Fund" with a copy of the Final Order.

After the parties sign this ESA and Respondent pays the civil penalty, the EPA will take no further action against Respondent for the violations described in the Form. However, the EPA does not waive any rights to take any enforcement action for any other violations by Respondent of CWA § 311(b)(3) or any other federal statute or regulations.

Upon signing and returning this ESA to the EPA, Respondent waives any right to judicial review under CWA § 311(b)(6)(G), 33 U.S.C. § 1321(b)(6)(G), any right to appeal or request a hearing to contest any fact or allegation, and consents to the EPA's approval of the ESA without further notice. Failure by Respondent to pay the penalty assessed by this ESA in full by its due date may subject Respondent to a civil action to collect the assessed penalty plus interest, attorney's fees, costs and an additional quarterly nonpayment penalty pursuant to CWA § 311(b)(6)(H), 33 U.S.C. § 1321(b)(6)(H). In any such collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

This ESA is binding on the parties signing below. Each person signing this ESA certifies that he or she has the authority to sign for the party who he or she represents and to bind that party to its terms. The ESA is effective upon the EPA's filing of the ESA with the Regional Hearing Clerk. If Respondent does not sign and return this ESA as presented within thirty (30) calendar days of the date of its receipt, the proposed ESA will be withdrawn without prejudice to the EPA's ability to file any other enforcement action for the noncompliance identified in the Form.

**APPROVED BY RESPONDENT:**

Name (print): David M. Jensen  
 Title (print): Lead Counsel  
 Signature: David M. Jensen  
 Date: 9/9/15

**APPROVED BY THE EPA:**

César A. Zapata Date 9/15/15  
 Chief, Enforcement and Compliance Branch  
 Resource Conservation and Restoration Division

**FINAL ORDER  
IT IS SO ORDERED:**

Tanya Floyd Date September 15, 2015  
 Tanya Floyd  
 Regional Judicial Officer



## **Findings and Alleged Violations Form Expedited Oil Spill Agreement**

1. FedEx Corporation is a corporation organized under the laws of the State of Delaware with a place of business located at 3620 Hacks Cross Road Building B Memphis, Tennessee 38125. Respondent is a person within the meaning of Section 311(a)(7) of the Clean Water Act (CWA), 33 U.S.C. § 1321(a)(7).

2. Respondent is the owner or operator of an onshore facility within the meaning of Section 311(a)(10) of the CWA, 33 U.S.C. § 1321(a)(10), which is located at 3050 Winchester Road Memphis, Tennessee 38118 ("facility").

3. Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3), prohibits the discharge of oil into or upon the navigable waters of the United States or adjoining shorelines in such quantities that have been determined may be harmful to the public health or welfare or environment of the United States.

4. For purposes of Section 311(b)(3) and (b)(4) of the CWA, 33 U.S.C. § 1321(b)(3) and (b)(4), discharges of oil into or upon the navigable waters of the United States in such quantities that the United States Environmental Protection Agency has determined may be harmful to the public health, welfare or environment of the United States are defined in 40 C.F.R. § 110.3 to include discharges of oil that violate applicable water quality standards, or cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines, or cause a sludge or emulsion to be deposited beneath the surface of the water or upon the adjoining shorelines.

5. On February 2, 2015, Respondent discharged approximately 1,000 gallons of oil, as defined in Section 311(a)(1) of the CWA, 33 U.S.C. § 1321(a)(1), and 40 C.F.R. § 110.1, from its facility into or upon Hurricane Creek and/or adjoining shorelines. The EPA obtained this information from the National Response Center Incident Report Number 1107244.

6. Hurricane Creek flows into Nonconnah Creek, which eventually flows into the Mississippi River. The Mississippi River is a "navigable water of the United States," as defined in Section 502(7) of the CWA, 33 U.S.C. § 1362(7), and 40 C.F.R. § 110.1, and is subject to the jurisdiction of Section 311 of the CWA.

7. Respondent's February 2, 2015 discharge of oil from its facility caused a film or sheen upon or discoloration of the surface of Hurricane Creek and /or upon adjoining shorelines, and therefore, was in a quantity that has been determined may be harmful under 40 C.F.R. § 110.3, which implements Section 311(b)(3) and (b)(4) of the CWA, 33 U.S.C. § 1321(b)(3) and (b)(4).

8. Respondent's February 2, 2015 discharge of oil from its facility into or upon Hurricane Creek and/or adjoining shorelines, which eventually flows to the Mississippi River, was in a quantity that has been determined may be harmful under 40 C.F.R. § 110.3. Respondent therefore violated Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3). Pursuant to Section 311(b)(6)(B)(i) of the CWA, 33 U.S.C. § 1321(b)(6)(B)(i), and 40 C.F.R. § 19.4, Respondent is liable for civil penalties of up to \$16,000 per violation, up to a maximum of \$37,500.

## ENCLOSURE 1 OIL SPILL FORM

Name of Company: FedEx Corporation

Please answer the following questions concerning the oil spill that occurred on February 2, 2015, at the Memphis International Airport, 3050 Winchester Road Memphis, Tennessee 38118, and **return this form to the EPA with the Expedited Settlement Agreement (ESA):**

1. State the total amount of money that Respondent has spent to clean up the oil spill prior to the date on which Respondent signed the Expedited Spill Agreement (ESA). \$ 6,635.92
2. State the volume\* of oil that was recovered during the cleanup. This number should only include the pure product that was recovered, and not the oil mixed with contaminated media such as soil, water, sediment and/or debris.  
150 GALLONS
3. State the volume\* of oil that was recovered during the cleanup that was mixed with each of the following media:
  - a. Volume\* of soil contaminated with oil NA
  - b. Volume\* of surface water contaminated with oil 3000 GALLONS
  - c. Volume\* of river/creek/wetland sediment contaminated with oil NA
  - d. Volume\* of debris (oil absorbing booms, pads, and vegetation) contaminated with oil ONE 55 GALLON DRUM

\*When providing the volume, please indicate if the measurement is in gallons or in cubic feet. If material was discarded in roll off container(s), you may state the number of containers used and the volume in cubic feet of each container.

KAREN ELLIS (SAMAL MANSOUR)

Name of Person Providing Information

K Ellis  
Signature

MANAGING DIRECTOR

Title

901-434-8465

Phone Number

**RETURN THIS COMPLETED OIL SPILL FORM TO THE EPA WITH THE SIGNED ESA**

CERTIFICATE OF SERVICE

I hereby certify that I have this day filed the original and a true and correct copy of the foregoing Consent Agreement and the attached Final Order (CA/FO), in the Matter of Memphis International Airport, Docket Number: CWA-04-2015-5003(b), and have served the parties listed below in the manner indicated:

Teresa Mann  
Assistant Regional Counsel  
Office of RCRA, OPA and UST Legal Support  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960

(Via EPA's electronic mail)

Quantindra Smith  
Enforcement and Compliance Branch  
Resource Conservation and Restoration Division  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960

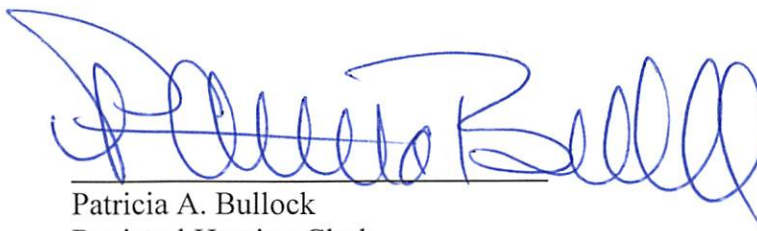
(Via EPA's electronic mail)

David M. Jensen  
Lead Counsel  
Regulatory Affairs  
FedEx Corporation  
3620 Hacks Cross Road  
Building B, 3<sup>rd</sup> Floor  
Memphis, Tennessee 38125

(Via Certified Mail - Return Receipt  
Requested)

Date: \_\_\_\_\_

9-16-15



Patricia A. Bullock  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960  
(404) 562-9511