

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

<b>IN THE MATTER OF:</b>	)	<b>Docket No. CAA-5-2000-013</b>
	)	
<b>National Maintenance and Repair, Inc.</b>	)	<b>Proceeding to Assess an Administrative</b>
<b>Hartford, Illinois</b>	)	<b>Penalty under Section 113(d) of the</b>
	)	<b>Clean Air Act, 42 U.S.C. § 7413(d)</b>
<b>Respondent.</b>	)	
_____	)	

**Consent Agreement and Final Order**

1. Complainant, the Director of the Air and Radiation Division, United States Environmental Protection Agency, Region 5 (U.S. EPA), brought this administrative action seeking a civil penalty under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d).

2. On September 20, 2000, U.S. EPA filed the complaint in this action against National Maintenance and Repair, Inc. (National). The complaint alleges that National violated the federally-enforceable State Implementation Plan (SIP) at its facility in Hartford, Illinois. The complaint alleges in Count I that Respondent failed to collect and record the name and identification number of each coating as applied on each coating line and the weight of volatile organic material per volume and the volume of each coating as applied each day on each coating line in violation of 35 Ill. Adm. Code § 219.211(b)(2). The complaint alleges in Count II that on October 16, 1998, Respondent failed to keep the covers closed on the cold cleaning degreasers at its facility when parts were not being handled in violation of 35 Ill. Adm. Code § 219.182(a)(2).

3. National filed an answer and requested a hearing under Section 113(d)(2) of the Act, 42 U.S.C. § 7413(d)(2).

4. Prior to filing the complaint, on July 27, 1999, U.S. EPA issued a Notice of Violation (NOV) to National pursuant to Section (113)(a)(1) of the Act, 42 U.S.C. § 7413(a)(1). In addition to the violations alleged in the complaint, in the NOV, U.S. EPA also alleged that:

- (1) throughout calendar year 1998, National conducted coating operations at its facility without an operating permit in violation of Illinois Pollution Control Board (IPCB) Rule 103(b)(1) or IPCB Rule 103(b)(2);
- (2) in 1998, National constructed a dissolved air flotation unit at its facility without a construction permit in violation of IPCB Rule 103(a)(1);
- (3) National operated the knockout tank in its wastewater treatment system from 1989 to July 27, 1999 without an operating permit in violation of IPCB Rule 103(b)(1); and
- (4) National operated the evaporator in its wastewater treatment system from 1989 to July 27, 1999 without an operating permit in violation of IPCB Rule 103(b)(1).

#### **Stipulations**

5. National admits the jurisdictional allegations in the complaint and neither admits nor denies the factual allegations in the complaint.

6. National waives its right to contest the allegations in the complaint, and waives its right to appeal under Section 113(d) of the Act, 42 U.S.C. § 7413(d).

7. National certifies that it is complying fully with 35 Ill. Adm. Code §§ 219.204(j) and (k), 35 Ill. Adm. Code 219.211(c), 35 Ill. Adm. Code 219.182 and IPCB Rules 103(a)(1), 103(b)(1) and 103(b)(2). National consents to the issuance of Administrative Consent Order EPA-5-01-113(a) IL-04 which provides, among other things, a program to demonstrate and maintain compliance with the record keeping requirements of 35 Ill. Adm. Code § 219.211(c)(2).

8. The parties consent to the terms of this consent agreement and final order (CAFO).

9. The parties agree that settling this action without further litigation, upon the terms in this CAFO, is in the public interest.

**Civil Penalty**

10. In consideration of Respondent's financial statements showing net worth, U.S. EPA agrees to mitigate the proposed penalty of \$91,900 to \$75,700. In consideration of Respondent's good faith efforts to comply and to cooperate with Complainant, U.S. EPA agrees to mitigate the penalty of \$75,700 to \$60,560. In consideration of the litigation risks involved, U.S. EPA agrees to mitigate the penalty of \$60,560 to \$39,364.

11. National must pay the \$39,364 civil penalty by cashier's or certified check payable to the "Treasurer, United States of America," within 30 days after the effective date of the CAFO.

12. National must send the check to:

U.S. Environmental Protection Agency  
Region 5  
P.O. Box 70753  
Chicago, Illinois 60673

13. A transmittal letter, stating Respondent's name, complete address, the case docket number, and the billing document number must accompany the payment. Respondent must write the case docket number and the billing document number on the face of the check. Respondent must send copies of the check and transmittal letter to:

Attn: Regional Hearing Clerk, (R-19J)  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Blvd.  
Chicago, Illinois 60604-3590

Attn: Compliance Tracker, (AE-17J)  
Air Enforcement and Compliance Assurance Branch  
Air and Radiation Division  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Blvd.  
Chicago, Illinois 60604-3590

Christine M. Liszewski, (C-14J)  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Blvd.  
Chicago, Illinois 60604-3509

14. This civil penalty is not deductible for federal tax purposes.

15. If National does not pay timely the civil penalty, U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties and the United States' enforcement expenses for the collection action under Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

16. Interest will accrue on any overdue amount from the date payment was due at a rate established under 26 U.S.C. § 6621(a)(2). National will pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. National will pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue according to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter.

**General Provisions**

17. This CAFO settles U.S. EPA's claims for civil penalties for the violations alleged in the complaint and the NOV.

18. Nothing in this CAFO restricts U.S. EPA's authority to seek National's future compliance with the Act and other applicable laws and regulations.

19. This CAFO does not affect National's responsibility to comply with the Act and other applicable federal, state and local laws, and regulations.

20. This CAFO constitutes an "enforcement response" as that term is used in "U.S. EPA's Clean Air Act Stationary Source Civil Penalty Policy" to determine National's "full compliance history" under Section 113(e) of the Act, 42 U.S.C. § 7413(e).

21. The terms of this CAFO bind National, and its successors, and assigns.

22. Each person signing this consent agreement certifies that he or she has the authority to sign this consent agreement for the party whom he or she represents and to bind that party to its terms.

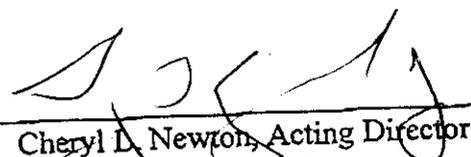
23. Each party agrees to bear its own costs and fees in this action.

24. This CAFO constitutes the entire agreement between the parties.

**CONSENT AGREEMENT AND FINAL ORDER**  
**National Maintenance and Repair, Inc.**  
**Docket No. CAA-5-2000-013**

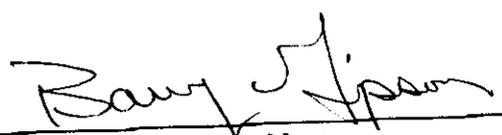
**U.S. Environmental Protection  
Agency, Complainant**

Date: 6/12/01

By:  <sup>FDR</sup>  
Cheryl D. Newton, Acting Director  
Air and Radiation Division  
U.S. Environmental Protection  
Agency, Region 5 (A-18J)

**National Maintenance and Repair, Inc.,  
Respondent**

May 14, 2001  
Date: \_\_\_\_\_

By:   
Barry Gipson, President  
National Maintenance and Repair, Inc.

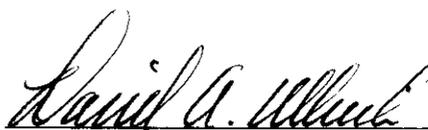
**CONSENT AGREEMENT AND FINAL ORDER**  
**National Maintenance and Repair, Inc.**  
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**Final Order**

It is ordered as agreed to by the parties and as stated in the consent agreement, effective immediately upon filing of this CAFO with the Regional Hearing Clerk.

Date:

June 14, 2001



David A. Ullrich  
Acting Regional Administrator  
U.S. Environmental Protection  
Agency, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

In the Matter of National Maintenance and Repair, Inc.  
Docket No: CAA-5-2000-013

CERTIFICATE OF MAILING

I, Betty Williams, do hereby certify that the original of the foregoing Consent Agreement and Final Order was hand delivered to the Regional Hearing Clerk, Region 5, U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604 and that correct copies, were mailed first class, postage prepaid, certified mail, return receipt requested, to the Respondent by placing it in the custody of the United States Postal Service addressed as follows:

Barry Gipson, President  
National Maintenance and Repair, Inc.  
Foot of Hawthorne Street  
P.O. Box 38  
Hartford, Illinois 62048

I also certify that a copy of the Consent Agreement and Final Order was sent by first class mail to:

Julie Armitage, Acting Section Manager  
Compliance and Systems Management Section  
Bureau of Air  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
Springfield, Illinois 62702

on the 18<sup>th</sup> day of June 2001.

  
Betty Williams, Secretary  
AECAS (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: 7099 3400 0000 95 95 7678