




UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAY - 7 2002

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

MEMORANDUM

SUBJECT: Changes to Section 311 Expedited (SEEP) Programs

FROM: Mark Pollins, Director
Water Enforcement Division 

TO: Addressees
Regions I, IV, VI, VII, VIII and X

I am writing to inform you of some minor, but necessary, changes to the expedited programs under Section 311 of the Clean Water Act, commonly referred to as the SEEP programs. I am also writing, under separate cover, a memorandum to all Regions regarding a similar change to our administrative procedures under traditional Section 311 Class I and Class II cases.

We were informed late last year that the Coast Guard had changed its procedures for recording EPA settlements and respondent payments. In turn, this required us to change some of the language we were using in our SEEP settlement documents. Attached you will find both revised settlement documents and a letter from the Coast Guard providing new addresses for sending settlements and respondent civil payments. These new settlement forms, which are being provided electronically to your staffs, supersede the previous forms.

My staff has since spoken to the Coast Guard and received further guidance. The Coast Guard, contrary to its letter, will accept checks made out to the "Oil Spill Liability Trust Fund," the present payee under our existing practice. I recommend that we maintain this instruction to our respondents. Second, the Coast Guard has no interest in receiving copies of EPA complaints. If you have been providing them with complaints, you can stop this practice. Third, the only information that the Coast Guard requires in any cover letter we provide is the EPA Docket Number for the particular settled case.

Please change the instructions in your cover letter to Respondents in SEEP cases from sending payment to the Coast Guard to sending their checks to EPA directly, along with their signature on the proposed settlement. The Region would then hold the check until the settlement

was signed by the Complainant and issued by an appropriate Agency official. The reasons for this are several:

① Because the Coast Guard has split the receipt of settlements and payments, it will be almost impossible for them to track whether a payment is received for each settlement. If we maintain our present honor system, in which we rely upon the respondent's representation of payment, we invite an increased level of financial and collection problems.

② If we required a Respondent to send a payment under the new Coast Guard system, we also anticipate a greater likelihood of the Coast Guard depositing checks into the Oil Spill Fund before EPA has actually issued an administrative penalty order. This problem is accentuated by the possibility that a few Orders may not be approved and issued, despite the signatures of the Respondent and the Complainant. In those cases, the Respondent would have paid money to the Fund not just prematurely, but inappropriately.

③ If we maintained our present practice of the Respondent paying the civil penalty and EPA providing a copy of the settlement in the new circumstances of two separate Coast Guard addresses, we increase the chances of Coast Guard accounting problems in matching payments to case outcomes.

The Regional office should send the payment check to the Coast Guard and a copy of the settled Order as soon as the Order has been approved. I recognize that this new arrangement represents a burden on the Regional offices, who will be responsible for the safeguarding and routing of the payment check. However, I think that this burden is slight compared to the benefits to the government, and necessary under all the circumstances. Because the check should not be deposited in the Fund until an Order has been fully executed, the Region should not consider itself at risk for its failure to forward the payment to the Coast Guard in the period between receipt and the issuance of the Order. However, we do recommend that the Region send both the check and a copy of the Order to the Coast Guard, at the addresses provided, as soon as the Order is issued.

You may also note that the attached forms have been reorganized and rewritten. These are editorial changes made for purposes of clarity, and no substantive changes are intended. If you have any questions about this memorandum, please contact me or David Drelich (202 564-2949) of my staff.

Attachments

Addressees:

Regional Counsels, Regions I, IV, VI, VII, VIII, and X
Director, Office of Environmental Stewardship, Region I
Director, Office of Site Remediation & Restoration, Region I

Director, Waste Management Division, Region IV

Director, Superfund Divisions, Regions VI and VII

Director, Compliance Assurance & Enforcement Division, Region VI

Assistant Regional Administrator, Office of Enforcement, Compliance & Environmental Justice,
Region VIII

Assistant Regional Administrator, Office of Ecosystem Protection and Remediation, Region VIII

Director, Environmental Cleanup, Region X

U.S. Department
of Transportation

United States
Coast Guard



Director
United States Coast Guard
National Pollution Funds Center

4200 Wilson Blvd. Suite 1000
Arlington, VA 22203-1804
Staff Symbol: cf
Phone: (202) 493-6800
FAX: (202) 493-6898

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January 30, 2002

Mr. David Drelich
U.S. Environmental Protection Agency
Mail Code 2243A
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Mr. Drelich:

I appreciate your support to assure that money owed to the Oil Spill Liability Trust Fund (OSLTF) is properly deposited and credited to the Fund.

The following instructions apply to all fines and penalties collections for deposit in the OSLTF resulting from violations of the Oil Pollution Act and Federal Water Pollution Control Act (Clean Water Act). These instructions apply to both civil and criminal fines and penalties.

Checks should be made payable to "U.S. Coast Guard", and sent to the following lockbox address. Make sure the "docket number" (CWA- or OPA-) appears on the front of the check:

U.S. Coast Guard
Civil Penalties
P.O. Box 100160
Atlanta, GA 30384

Consent Decrees, Consent Agreements, or Final Orders supporting each collection should be sent to:

U.S. Coast Guard
Finance Center (OGR)
1430A Kristina Way
Chesapeake, VA 23326

I have enclosed samples of a report prepared by the Coast Guard Finance Center showing receipt of money and supporting documents. We welcome your comments on them, and your suggestions as to how often and by what means (web, e-mail, etc.) we might provide them to EPA users.

It would be helpful to know the persons to contact in the EPA Regions to resolve problems with specific deposits. Is there a single point of contact within each Region who would be aware of the status of fine and penalty collections and documents?

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January 30, 2002

Points of contact at the U.S. Coast Guard Finance Center are:

Ms. Marilyn Gould, (757) 523-6867 (e-mail: mgould@fincen.uscg.mil)

Mr. Karen Skeeter, (757) 523-6058 (e-mail: kskeeter@fincen.uscg.mil)

Thanks again for your assistance.

Sincerely,



DARRELL W. NEILY
Chief Financial Officer
By direction of the Director

Encl: (1) EPA Payments FY01
(2) EPA Payments FY02



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

[Region, Address]

EXPEDITED SPILL SETTLEMENT AGREEMENT

DOCKET NO. OPA - _____

On _____ Time _____
At: _____

Expedited Settlement as presented within [30] days of the date of its receipt, the proposed Expedited Settlement is withdrawn without prejudice to EPA's ability to file any other enforcement action for the violations identified in the Form.

_____ (Respondent) discharged _____ gallons of oil in violation of Section 311(b)(3) of the Clean Water Act (the Act), as noted on the attached FINDINGS and ALLEGED VIOLATIONS FORM (Form), which is hereby incorporated by reference.

APPROVED BY EPA:

EPA finds the Respondent's conduct is subject to the discharge prohibition of Section 311(b)(3) of the Act, as described in that statute and further described by 40 CFR § 110.3. The Respondent admits being subject to Section 311(b)(3) and that EPA has jurisdiction over the Respondent and the Respondent's conduct as described in the Form. Respondent does not contest the Findings in the Form, and waives any objections it may have to EPA's jurisdiction.

_____ Date: _____
[Complainant]
[Title]

APPROVED BY RESPONDENT:

EPA is authorized to enter into this Expedited Settlement under the authority vested in the Administrator of EPA by Section 311(b)(6)(B)(i) of the Act, 33 U.S.C. § 1321(b)(6)(B)(i), as amended by the Oil Pollution Act of 1990, and by 40 CFR § 22.13(b). The parties enter into this Expedited Settlement in order to settle the civil violations described in the Form for a penalty of \$_____. Respondent consents to the assessment of this penalty.

Name (print): _____
Title (print): _____

Signature: _____

IT IS SO ORDERED:

This Expedited Settlement 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. The Respondent also verifies that it has sent a certified check for \$_____ payable to the "Oil Spill Liability Trust Fund" to: [Regional addressee]. Respondent has written on the penalty payment check "EPA" and the docket number of this case, _____.

_____ Date _____
[Appropriate Official]
[Title]

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After this Expedited Settlement becomes effective, EPA will take no further action against the Respondent for the violations of Section 311(b)(3) of the Act described in the Form. However, EPA does not waive any rights to take any enforcement action for any other past, present, or future violations by the Respondent of Section 311(b)(3) of the Act or of any other federal statute or regulation. By its first signature, EPA ratifies the Findings and Alleged Violations set forth in the Form.

Upon signing and returning this Expedited Settlement to EPA, Respondent waives the opportunity for a hearing or appeal pursuant to Section 311 of the Act, and consents to EPA's approval of the Expedited Settlement without further notice.

This Expedited Settlement is binding on the parties signing below, and effective upon the [Appropriate Official's] signature. If the Respondent does not sign and return this



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

[Region __, Address]

EXPEDITED SPCC SETTLEMENT AGREEMENT

DOCKET NO. _____

On _____ Time _____

At: _____

Owned or operated by: _____

(Respondent)

an authorized representative of the United States Environmental Protection Agency (EPA) conducted an inspection to determine compliance with the Oil Pollution Prevention (SPCC) regulations promulgated at 40 CFR Part 112 under Section 311(j) of the Clean Water Act, 33 U.S.C. § 1321(j), (the Act), and found that Respondent had failed to comply with the SPCC regulations as noted on the attached SPCC INSPECTION FINDINGS, ALLEGED VIOLATIONS AND PROPOSED PENALTY FORM (Form), which is hereby incorporated by reference. By its first signature below, EPA ratifies the Inspection Findings and Alleged Violations set forth in the Form.

EPA finds the Respondent is subject to the SPCC regulations and has violated the SPCC regulations as further described in the Form. The Respondent admits being subject to 40 CFR Part 112 and that EPA has jurisdiction over the Respondent and the Respondent's conduct as described in the Form. Respondent does not contest the Inspection Findings, and waives any objections Respondent may have to EPA's jurisdiction.

EPA is authorized to enter into this Expedited Settlement under the authority vested in the Administrator of EPA by Section 311(b) (6) (B) (i) of the Act, 33 U.S.C. § 1321(b) (6) (B) (i), as amended by the Oil Pollution Act of 1990, and by 40 CFR § 22.13(b). The parties enter into this Expedited Settlement in order to settle the civil violations described in the Form for a penalty of \$ _____. The Respondent consents to the assessment of this penalty.

This Expedited Settlement 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 the violations have been corrected and Respondent has sent a certified check in the amount of \$ _____, payable to the "Oil Spill Liability Trust Fund," to: [Regional addressee]. Respondent has noted on the penalty payment check "EPA" and the docket number of this case, "_____".

After this Expedited Settlement becomes effective, EPA will take no further action against the Respondent for the violations of the SPCC regulations described in the Form. However, EPA does not waive any rights to take any enforcement action for any other past, present, or future violations by the Respondent of the SPCC regulations or of any other federal statute or regulation.

Upon signing and returning this Expedited Settlement to EPA, Respondent waives the opportunity for a hearing or appeal pursuant to Section 311 of the Act, and consents to

EPA's approval of the Expedited Settlement without further notice.

This Expedited Settlement is binding on the parties signing below, and is effective upon the [appropriate official's] signature. If Respondent does not sign and return this Expedited Settlement as presented within [30] days of the date of its receipt, the proposed Expedited Settlement is withdrawn without prejudice to EPA's ability to file any other enforcement action for the noncompliance identified in the Form.

APPROVED BY EPA:

_____ Date: _____
[Complainant]
[Title]

APPROVED BY RESPONDENT:

Name (print): _____
Title (print): _____
Signature: _____

IT IS SO ORDERED:

_____ Date _____
[Appropriate official]
[Title]
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