

# Wetlands/Clean Water Act Enforcement: U.S. Environmental Protection Agency and SpaceX Enter into Consent Agreement and Final Order



**Walter Wright, Jr.**  
wwright@mwlaw.com  
(501) 688.8839

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The United States Environmental Protection Agency (“EPA”) and Space Exploration Technologies Corp. (“SpaceX”) entered into a January 15th Consent Agreement and Final Order (“CAFO”) addressing alleged violations of the Clean Water Act. See Docket No. CWA-06-2024-1768.

The CAFO provides that SpaceX is a privately-owned company headquartered in Brownsville, Texas.

SpaceX is stated to own or operate the Starbase Launch Pad site (“Facility”) in Cameron County, Texas. Therefore, it is stated to be an “owner or operator” within the meaning of 40 C.F.R. § 122.2.

The CAFO further provides that at:

... At all relevant times, either the water deluge system or the liquid oxygen tank at the facility acted as a “point source” of a “discharge” of “pollutants” to wetlands bordering the facility as follows. The deluge water discharged to the surrounding wetlands is considered an industrial process wastewater. The wetlands bordering the facility are “navigable waters” as defined in the CWA Section 502(7) and thus “waters of the United States.” The wetlands are adjacent to and have a continuous surface connection to the Rio Grande River, which is a traditionally navigable water within the meaning of Section 502 of the CWA, 33 U.S.C. § 1362, and 40 C.F.R. § 122.2.

SpaceX is alleged to have owned or operated a facility that acted as a point source of discharges of pollutants to Waters of the United States, and the Facility is subject to the Clean Water Act and the TPDES. The Facility is stated to have not had a TPDES Permit, and therefore not authorized to discharge pollutants from the Facility to Waters of the United States.

EPA is stated to have transmitted on August 25, 2023, an information request letter pursuant to Section 308 of the Clean Water Act requesting information regarding known unauthorized discharges from the Facility to the wetlands bordering the Facility.

EPA is stated to have issued an Administrative Order on March 13, 2024, citing information on known unauthorized discharges from the Facility. The federal agency is then stated to have asked for information regarding launches in November 2023, March 2024, and June 2024.

Responses to the information request, Administrative Order, and information gathered from other sources is alleged to have identified unauthorized discharges from 2022 to 2024, including but not limited to:

- Liquid oxygen spill discharged 36,000 gallons of liquid oxygen to the wetlands.
- During first full-up test of the launch pad water deluge system approximately 45,300 gallons of the deluge water discharged to the wetlands bordering the launch pad.
- Static fire test of the starship super heavy booster is alleged to have resulted in 37,000 gallons from the water deluge system discharged to the wetlands.
- Subsequent static fire test of the starship super heavy booster resulted in 37,000 gallons from the water deluge system discharged to the wetlands.
- Launch of a Starship rocket from the facility is stated to have resulted in 34,200 gallons from the water deluge system discharged to the wetlands.
- An additional static fire test of the starship super heavy booster is stated to have resulted in 37,000 gallons from the water deluge system discharged to the wetlands.
- An additional static fire test of the starship super heavy booster is stated to have resulted in 37,000 gallons from the water deluge system discharged to the wetlands.
- Launch of a Starship rocket from the Facility is estimated to have resulted in approximately 34,200 gallons from the water deluge system discharged to the wetlands.

SpaceX signed a Texas Commission on Environmental Quality Agreed Order on August 13, 2024, requiring, among other measures, sampling of future discharges at the Facility with specific effluent limitations listed in the Order.

SpaceX neither admits nor denies the specific allegations set forth in Section IV of the CAFO.

The CAFO assesses a civil penalty of \$148,378.00.

A copy of the CAFO can be downloaded [here](#).