



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

SEP 30 2013

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Recycling and Treatment Technologies of Detroit LLC
c/o Magnus International Group
16533 Chillicothe Road
Chagrin Falls, Ohio 44023

Re: *Recycling and Treatment Technologies of Detroit LLC*
Consent Agreement and Final Order
Docket No. **CAA-05-2013-0047**

To Whom It May Concern:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves In the Matter of *Recycling and Treatment Technologies of Detroit LLC*, Docket No. **CAA-05-2013-0047**. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on **SEP 30 2013**.

Pursuant to paragraph 23 of the CAFO, Recycling and Treatment Technologies of Detroit LLC must pay the civil penalty within 45 days of date the CAFO is filed. Your check or electronic funds transfer must display the case name, case docket number **CAA-05-2013-0047**.

Please direct any questions regarding this case to Catherine Garypie, Associate Regional Counsel, (312) 886-6082.

Sincerely,

Sara Bruneman

for Eileen L. Furey
Acting Chief
Air Enforcement and Compliance Assurance Branch

Enclosure

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket No.	CAA-05-2013-0047
)		
Recycling and Treatment)		
Technologies of Detroit LLC)		
Detroit, Michigan,)	Under Section 113(d) of the Clean Air Act,	
)	42 U.S.C. § 7413(d)	
Respondent.)		
_____)		

RECEIVED
REGIONAL OFFICE
SEP 27 2013
EPA REGION 5
SEP 27 2013

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the CAA), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at 40 C.F.R. Part 22.

2. Complainant is the Director of the Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 5.

3. Respondent is Recycling and Treatment Technologies of Detroit LLC, an Ohio limited liability company doing business in Michigan.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

Statutory and Regulatory Background

9. Each state must submit to the Administrator of EPA a state implementation plan ("SIP") for attaining and maintaining the National Ambient Air Quality Standards under Section 110 of the CAA, 42 U.S.C. § 7410.

10. On May 31, 1972, EPA approved the State of Michigan's February 3, 1972 SIP submittal, which included Wayne County regulations that had been adopted and were effective at that time. 37 Fed. Reg. 10873 (May 31, 1972). On May 6, 1990, EPA approved the State of Michigan's April 25, 1979 SIP submittal, which included amendments to the Wayne County regulations. 45 Fed. Reg. 29790 (May 6, 1990). On May 13, 1993, EPA approved the State of Michigan's October 10, 1986 SIP submittal (portions of which were withdrawn in a January 28, 1993 letter from the State of Michigan). 58 Fed. Reg. 28359 (May 13, 1993).

11. The Michigan SIP includes Mich. Admin. Code r. 336.1201 (1980). Mich. Admin. Code r. 336.1201 provides that a person shall not install, construct, reconstruct, relocate, or alter any process, fuel-burning, or refuse-burning equipment, or control equipment pertaining thereto which may be a source of an air contaminant, until a permit is issued by the commission. Mich. Admin. Code r. 336.1201 further provides that this permit shall be known as a permit to

install and shall cover construction, reconstruction, relocation, and alteration of equipment where such is installed.

12. The Michigan SIP includes Mich. Admin. Code r. 336.1208 (1980). Mich. Admin. Code r. 336.1208 provides that before the commission issues a permit to operate, except as provided in Mich. Admin. Code r. 336.1201(4)(trial operation), a person shall not operate a process, fuel-burning, or refuse-burning equipment, or an air-cleaning device pertaining thereto which may be a source of an air contaminant.

13. The Michigan SIP includes Section 801 (Incorporated State Rules) of the Wayne County Pollution Control Ordinance (WCPCO). WCPCO Section 801.A. incorporates Rule 336.1901 of the Michigan Air Pollution Control Commission General Rules, in effect at the time of SIP approval. Rule 336.1901 prohibits a person from causing or permitting the emission of an air contaminant in quantities that cause, alone, or in reaction with other air contaminants, unreasonable interference with the comfortable enjoyment of life and property. Mich. Admin. Code r. 336.1901 (1980).

14. The Administrator of EPA (the Administrator) may assess a civil penalty of up to \$32,500 per day of violation up to a total of \$270,000, for SIP violations that occurred after March 15, 2004 through January 12, 2009, and may assess a civil penalty of up to \$37,500 per day of violation up to a total of \$295,000, for SIP violations that occurred after January 12, 2009, under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

15. Section 113(d)(1) limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and the Attorney General of the United

States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

16. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this CAFO.

Factual Allegations and Alleged Violations

17. Recycling and Treatment Technologies of Detroit LLC ("RTTD") owns and operates a waste oil recycling and treatment facility at 530 South Rouge Street, Detroit, Michigan.

18. EPA alleges RTTD is subject to the SIP requirements because it currently operates an oily wastewater recycling process and it did operate a K-waste recycling process. Both processes may be sources of air contaminants.

19. On September 27, 2010, EPA issued to RTTD a Notice of Violation alleging that RTTD violated the SIP provision which does not allow causing or permitting the emission of an air contaminant in quantities that cause, alone, or in reaction with other air contaminants, unreasonable interference with the comfortable enjoyment of life and property for causing incidents constituting unreasonable interference with the comfortable enjoyment of life and property on a number of occasions between September 2009 and August 2010. WCPCO Section 801.A. and Mich. Admin. Code r. 336.1901.

20. On December 30, 2011, EPA issued to RTTD a Notice of Violation alleging that RTTD violated the SIP provision requiring a permit to install and a permit to operate by operating the facility without either type of permit since January 10, 2007. This Notice of Violation also alleged additional incidents constituting unreasonable interference with the

comfortable enjoyment of life and property on a number of occasions between October 2010 and September 2011. Mich. Admin. Code r. 336.1901 (1980) and WCPCO Section 801.A.

21. On November 9, 2010, representatives of RTTD and EPA discussed the September 27, 2010 Notice of Violation. On March 21, 2012, representatives of RTTD and EPA discussed the December 30, 2011 Notice of Violation.

Civil Penalty

22. Based on analysis of the factors specified in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), the facts of this case, the history of noncompliance of the Respondent, and the cooperation of the Respondent in this case, Complainant has determined that an appropriate civil penalty to settle this action is \$45,000.

23. Within 45 days after the effective date of this CAFO, Respondent must pay a \$45,000 civil penalty using one of the following five payment options:

- a. Sending a cashier's or certified check by regular mail, payable to

"Treasurer, United States of America," to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

- b. Sending a cashier's or certified check by express mail, payable to

"Treasurer, United States of America," to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines and Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, Missouri 63101

The check must note Respondent's name, docket number of this CAFO and the billing document number.

c. Electronic funds transfer, payable to "Treasurer, United States of America," and send to:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 68010727
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should
read: "D68010727 Environmental Protection Agency"

In the comment or description field of the electronic funds transfer, state Respondent's name, the docket number of this CAFO and the billing document number.

d. Automated Clearinghouse (ACH) (also known as REX or remittance express) electronic funds transfer, payable to "Treasurer, United States of America," and send to:

US Treasury REX/Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22-checking

In the comment area of the electronic funds transfer, state Respondent's name, the docket number of this CAFO and the billing document number.

e. On-line payment. To pay on-line, go to www.pay.gov. Use the Search Public Forms option on the tool bar and enter SFO 1.1 in the search field. Open the form and complete the required fields.

24. Respondent must send a notice of payment that states Respondent's name, the docket number of this CAFO and the billing document number to EPA at each of the following addresses when it pays the penalty:

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

Catherine Garypie, Associate Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard (C-14J)
Chicago, Illinois 60604

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard (E-19J)
Chicago, Illinois 60604

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

26. If Respondent does not pay timely the civil penalty or any quarterly nonpayment penalties due under paragraph 27, below, EPA may request the Attorney General of the United States to bring an action to collect any unpaid portion of the penalty with interest, nonpayment penalties and the United States enforcement expenses for the collection action under Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

27. Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621(a)(2). Respondent must pay the United States enforcement expenses, including but not limited to attorneys fees and costs incurred by the United States for collection proceedings. In addition, Respondent must pay a

quarterly nonpayment penalty each quarter during which the assessed penalty is overdue. 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. 42 U.S.C. § 7413(d)(5).

General Provisions

28. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in this CAFO.

29. The effect of the settlement described in paragraph 28, above, is conditioned upon the accuracy of Respondent's representations to EPA, as memorialized in Respondent's letter dated October 15, 2010, email dated October 29, 2010, letter dated December 14, 2010, letter dated August 19, 2011, letter dated January 12, 2012, and email dated April 12, 2013.

30. The CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

31. This CAFO does not affect Respondent's responsibility to comply with the CAA and other applicable federal, state and local laws. Except as provided in paragraph 28, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

32. Respondent certifies it will be in compliance with the portions of the SIP which EPA alleges have been violated in the Notices of Violations referenced in paragraphs 19 and 20, above, when Respondent timely completes the compliance program contained in the Administrative Compliance Order EPA-5-13-113(a)-MI-02, being issued simultaneously with this CAFO.

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

34. The terms of this CAFO bind Respondent, its successors and assigns.

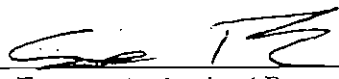
35. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

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

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

Recycling and Treatment Technologies of Detroit LLC, Respondent

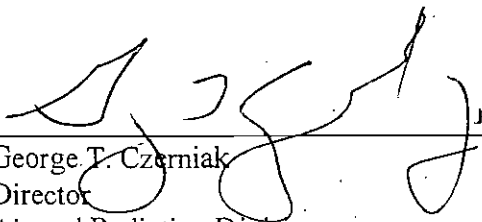
6/27/13
Date



Scott Forster, Authorized Representative of
Recycling and Treatment Technologies
of Detroit LLC

United States Environmental Protection Agency, Complainant

9/26/13
Date



George T. Czerniak
Director
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5

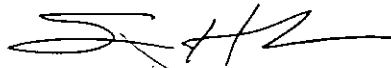
Consent Agreement and Final Order
In the Matter of: Recycling and Treatment Technologies of Detroit LLC
Docket No. CAA-05-2013-0047

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

9-26-2013

Date



Susan Hedman
Regional Administrator
U.S. Environmental Protection Agency
Region 5

Consent Agreement and Final Order

In the Matter of: Recycling and Treatment Technologies of Detroit LLC

Docket No. CAA-05-2013-0047

Certificate of Service

I certify that I filed the original and one copy of the Consent Agreement and Final Order (CAFO), docket number CAA05 2013 0047 with the Regional Hearing Clerk (E-19J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, Illinois 60604, and that I mailed the second original copy to Respondent by first-class, postage prepaid, certified mail, return receipt requested, by placing it in the custody of the United States Postal Service addressed as follows:

Recycling and Treatment Technologies of Detroit LLC
c/o Magnus International Group
16533 Chillicothe Road
Chagrin Falls, OH 44023

Meagan L. Moore, Esq.
Brouse McDowell
600 Superior Avenue East, Suite 1600
Cleveland, OH 44114-2603

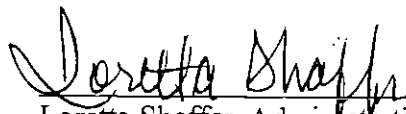
I certify that I delivered a correct copy of the CAFO by intra-office mail, addressed as follows:

Anne Coyle, Regional Judicial Officer
U.S. Environmental Protection Agency
77 W. Jackson Boulevard (C-14J)
Chicago, Illinois 60604

I also certify that I mailed a correct copy of the CAFO by first-class mail to:

Steve Weis
Michigan Department of Environmental Quality
Air Quality Division - Detroit District Office
3058 W. Grand Blvd., Suite 2-300
Detroit, MI 48202

On the 30 day of September 2013.


Loretta Shaffer, Administrative
Program Assistant
Planning and Administration Section

CERTIFIED MAIL RECEIPT NUMBER:

7009 1680 0000 7669 5800