



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

SEP 20 2007

REPLY TO THE ATTENTION OF:

(AE-17J)

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

Mr. Zane Ward  
Azimow & Culbertson Scrap Co.  
206 S. Curve Street  
Alexandria, Indiana 46001

Dear Mr. Ward:

Enclosed is a file stamped Consent Agreement and Final Order (CAFO) which resolves Azimow & Culbertson Scrap Co. CAA Docket No. CAA-05-2007-0027. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on SEP 21 2007.

Pursuant to paragraph 31 of the CAFO, Azimow & Culbertson Scrap Co. must pay the \$1,000 civil penalty within 30 days of the date the CAFO was filed, SEP 21 2007. The check must display the case docket number, CAA-05-2007-0027, and the billing document number, 2750703A030.

Please direct any questions regarding this case to Eaton Weiler, Associate Regional Counsel, (312) 886-4670.

Sincerely yours,

Brent Marable, Chief  
Air Enforcement and Compliance Assurance Section (IL/IN)

Enclosure

Cc: Craig Henry, Acting Section Chief  
Office of Enforcement Air Section  
Indiana Department of Environmental Management

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

**IN THE MATTER OF:**

Mr. Zane Ward d/b/a Azimow and  
Culbertson Scrap Company  
Alexandria, Indiana

**Respondent.**

) **Docket No. CAA-05-2007-00271**  
) **Proceeding to Assess a Civil**  
) **Penalty under Section 113(d) of the**  
) **Clean Air Act, 42 U.S.C. § 7413(d)**  
)  
)  
)

**CONSENT AGREEMENT AND FINAL ORDER**

**Preliminary Statement**

1. This is an administrative action commenced and concluded under Section 113(d) the Clean Air Act (the "Act"), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b), and 22.18(b) 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 (2004).
2. Complainant is the Director of the Air and Radiation Division, United States Environmental Protection Agency, Region 5 ("U.S. EPA").
3. Respondent is Mr. Zane Ward d/b/a Azimow and Culbertson Scrap Company ("Azimow"), doing business in the State of Indiana.
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) (2004).

RECEIVED  
REGIONAL HEARING CLERK  
US EPA REGION 5  
2007 SEP 21 AM 10:11

5. The U.S. EPA and Azimow (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. The parties consent to entry of this CAFO and the assessment of the specified civil penalty, and agree to comply with the terms of the CAFO.

**Jurisdiction and Waiver of Right to Hearing**

7. Azimow admits the jurisdictional allegations in this CAFO and neither admits nor denies the other factual or legal allegations in this CAFO.

8. Azimow 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. Under Section 112 of the Act, the Administrator promulgated the National Emission Standards for Hazardous Air Pollutants (“NESHAP”) for Secondary Aluminum Production, found at 40 C.F.R. Part 63, Subpart RRR §§ 63.1500 through 1520 (hereinafter “NESHAP”).

10. The NESHAP applies to owners and operators of a secondary aluminum production facility. 40 C.F.R. § 1500(a).

11. A “secondary aluminum production facility” is defined, in relevant part, as “any establishment using . . . aluminum scrap . . . as the raw material and performing . . . furnace operations (i.e., melting, holding, sweating, refining, fluxing, or alloying) . . . .” 40 C.F.R. § 63.1503.

12. An “existing secondary aluminum process unit” is defined as “all existing group 1 furnaces and all existing in-line fluxers within a secondary aluminum production facility,” constructed before February 11, 1999. 40 C.F.R. § 63.1503.

13. A “group 1 furnace” is defined as “furnace of any design that melts, holds, or process aluminum that contains paint, lubricants, coatings, or other foreign materials with or without reactive fluxing, or process clean charge with reactive fluxing.” 40 C.F.R. § 63.1503.

14. An “add-on air pollution control device” is defined as “equipment installed on a process vent that reduces the quantity of a pollutant that is emitted to the air.” 40 C.F.R. § 63.1503.

15. An “area source” is defined as a stationary source which does not emit or have the potential to emit 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants.

16. The Administrator may assess a civil penalty of up to \$27,500 per day of violation up to a total of \$220,000 for violations that occurred from January 31, 1997 through March 15, 2004, and may assess a civil penalty of up to \$32,500 per day of violation up to a total of \$270,000 for violations that occurred after March 15, 2004 under Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19 (2004).

#### **Factual Allegations and Alleged Violations**

17. Azimow, at its facility located at 206 South Curve Street, Alexandria, Indiana, owned and operated one propane-fired secondary aluminum crucible furnace for melting scrap aluminum, constructed in 1993, with a maximum melting capacity of 200 pounds per hour of scrap metal. Azimow uses no flux in the furnace and melts aluminum scrap containing paint, lubricants, coatings, or other foreign materials.

18. Azimow’s facility is an “area source” of Hazardous Air Pollutants.

19. Azimow owned and operated an “existing secondary aluminum processing unit” containing a “group 1 furnace” without an “add-on air pollution control device,” as those terms are defined at 40 C.F.R. § 63.1503.

20. Azimow owned and operated a “secondary aluminum production facility” as that term is defined at 40 C.F.R. § 63.1503.

21. Azimow operated the furnace approximately three to four days per month, up to four hours per day.

22. Azimow ceased operation of the furnace on or about January 9, 2006, after the Indiana Department of Environmental Management informed Azimow that it was operating the furnace in violation of the Act.

23. Azimow has since dismantled and scrapped the furnace.

24. Azimow violated 40 C.F.R. § 63.1511(b) by failing to conduct a stack test on its furnace to determine compliance with the Dioxins Furans Toxic Equivalents emission limit by March 23, 2003.

25. Azimow violated 40 C.F.R. § 63.1510(b) by failing to prepare and implement a written operation, maintenance, and monitoring plan (“OM&M”) for its furnace. An OM&M plan is required to satisfy all of the requirements of § 63.1510, and Azimow was required to submit the OM&M plan by March 24, 2003.

26. Azimow violated 40 C.F.R. § 63.1510(o) by failing to develop and submit a written site-specific monitoring plan for its furnace. A site-specific monitoring plan must contain sufficient procedures to ensure continuing compliance with all applicable emission limits and must demonstrate, based on documented test results, the relationship between emissions of Dioxins and Furans and the proposed monitoring parameters.

27. Azimow violated 40 C.F.R. § 63.1510(6)(b) by failing to provide and maintain a label for its furnace identifying, among other things, the emission limit and the means of compliance.

28. Azimow violated 40 C.F.R. § 63.1510(e) by failing to install, calibrate, operate, and maintain a device to measure and record the total weight of feed/charge to, or the aluminum production from, its furnace.

29. Azimow violated 40 C.F.R. § 63.1515(b) by failing to submit a notification of compliance status report by May 24, 2003. A complete notification of compliance must be signed by the responsible official who must certify its accuracy. A complete notification must include the information specified in paragraphs (1) through (10) of § 63.1515(b).

30. Azimow violated 40 C.F.R. § 63.1516(b) by failing to submit any semi annual compliance reports.

### **Terms of Settlement**

#### **Civil Penalty**

31. Based on analysis of the factors specified in Section 113(e) of the Act, 42 U.S.C. § 7413(e), including the facts of this case, the nature of the violations, the cooperation demonstrated by Azimow, the economic impact of the penalty on Azimow, and other relevant factors, U.S. EPA has determined that an appropriate civil penalty to settle this action is \$1,000.

32. Azimow must pay the \$1,000 civil penalty either by cashier's or certified check payable to the "Treasurer, United States of America," or ACH debit or credit card, within 30 days after the effective date of this CAFO.

33. Azimow must send the check to:

US checks sent by regular US Postal Service mail:

U.S. Environmental Protection Agency  
Box 371099M  
Pittsburgh, PA 15251

US checks sent by non-US Postal Service express mail:

Mellon Client Service Center  
ATTN: Shift Supervisor, Room 0690  
Lockbox 371099M  
500 Ross Street  
Pittsburgh, PA 15262-0001

For payments online using ACH debit or credit card, please visit [www.pay.gov](http://www.pay.gov). Using the **Search Public Forms** option on the tool bar (left side of page), enter **SFO 1.1** in the search field. Open the form and complete the information requested.

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

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 60604-3511

Eaton Weiler, (C-14J)  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Blvd.  
Chicago, Illinois 60604-3511

35. This civil penalty is not deductible for federal tax purposes. If Azimow does not timely pay 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. Interest will accrue on any overdue amount from the date payment was due at a rate established under 31 U.S.C. § 3717. Azimow will pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. Azimow 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**

31. This CAFO resolves Azimow's liability for federal civil penalties for the violations alleged in this CAFO.

32. The effect of the settlement, as defined in paragraph 31, is conditioned upon Azimow's compliance with paragraphs 31 through 34 of this CAFO, and the accuracy of the factual allegations contained in paragraphs 22 and 23 of this CAFO.

33. This CAFO does not affect the right of U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief for any violation of law not addressed in this CAFO or any criminal sanctions for any violation of law.

34. This CAFO does not affect Azimow's responsibility to comply with the Act and other applicable federal, state and local laws, and regulations. Except as provided in paragraph 31 above, compliance with this CAFO will not be a defense to any actions



subsequently commenced pursuant to federal laws and regulations administered by Complainant.

35. 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 Azimow “full compliance history” under Section 113(e) of the Act, 42 U.S.C. § 7413(e).

36. The terms of this CAFO bind Azimow, and its successors, and assigns.

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

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

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

**Azimow and Culbertson Scrap Company, Respondent**

7/14/07  
Date

Zane E Ward  
Mr. Zane Ward  
Azimow and Culbertson Scrap Company

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

9/18/07  
Date

Stephen Rothblatt  
Stephen Rothblatt, Director  
Air and Radiation Division  
U.S. Environmental Protection  
Agency, Region 5 (A-18J)

**CONSENT AGREEMENT AND FINAL ORDER**  
**Mr. Zane Ward d/b/a Azimow and Culbertson Scrap Company**  
**Docket No. CAA-05-2007-0027**

**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. This final order disposes of this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

9-20-07

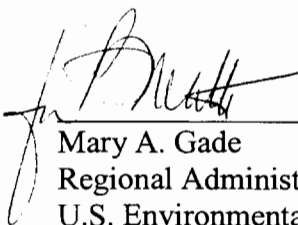
Date

RECEIVED  
REGIONAL HEARING CLERK  
US EPA REGION 5

2007 SEP 21 PM 6:17

AM 10:17

*BBW*



Mary A. Gade  
Regional Administrator  
U.S. Environmental Protection  
Agency, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3511

In the Matter of Azimow & Culbertson Scrap Co.  
Docket No: **CAA-05-2007-0027** (

CERTIFICATE OF MAILING


I, Betty Williams, certify that I hand delivered the original of the Consent Agreement and Final Order, docket number CAA-05-2007-0027 ( to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that I mailed correct copies by first-class, postage prepaid, certified mail, return receipt requested, to Azimow & Culbertson Scrap Co. and Counsel by placing them in the custody of the United States Postal Service addressed as follows:

Mr. Zane Ward  
Azimow & Culbertson Scrap Co.  
206 S. Curve Street  
Alexandria, Indiana 46001

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

Craig Henry, Acting Section Chief  
Office of Enforcement Air Section  
Indiana Department of Environmental Management  
100 North Senate Avenue / Mail Code 60-02  
Indianapolis, Indiana 46204

on the 21st day of September 2007.

  
Betty Williams, Secretary  
AECAS (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER:

7001 0320 0005 8920 1965

RECEIVED  
REGIONAL HEARING CLERK  
US EPA REGION V  
2007 SEP 21 AM 10:12