



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAR - 1 2019

REPLY TO THE ATTENTION OF

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

David Stoltenberg, VP Environmental Safety and Health
Polypore International, LP
11430 N. Community House Rd., Suite 350
Charlotte, NC 28277

Dear Mr. Stoltenberg :

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves Daramic, LLC, docket no. CAA-05-2019-0012. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on March 1, 2019.

Pursuant to paragraph 28 of the CAFO, Daramic, LLC must pay the civil penalty within 30 days of the filing date. Your check must display the case name and case docket number.

Please direct any questions regarding this case to Rob Smith, Associate Regional Counsel, at 312-886-0765

Sincerely,

A handwritten signature in cursive script that reads "Brian Dickens".

Brian Dickens, Chief
Air Enforcement and Compliance Assurance Section (MN/OH)

Enclosure

cc: Ann Coyle, Regional Judicial Officer/via email
Regional Hearing Clerk/via email
Rob Smith/via email
Phil Perry, Indiana Department of Environmental Quality/via email
Andy Bowman, Bingham Greenebaum Doll LLP/via email

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:

Daramic, LLC
Corydon, Indiana,

Respondent.



Docket No. CAA-05-2019-0012

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) 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 Daramic, LLC (Daramic), a Delaware limited liability corporation doing business in 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).

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 or legal conclusions 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. On December 14, 1995, EPA approved 326 Indiana Administrative Code (IAC) 2-7-1 through 2-7-4 as part of the federally enforceable Indiana State Implementation Plan (SIP). 60 Fed. Reg. 57188, November 14, 1995.

10. 326 IAC 2-7-2(a)(1) provides, in part, that a major source as defined in 326 IAC 2-7-1(22) is required to have a Part 70 permit.

11. 326 IAC 2-7-4(c)(3) provides, in part, that a Part 70 permit application shall describe all emissions of regulated air pollutants emitted from any emission unit.

12. On July 7, 2003, EPA approved 326 IAC 8-1-2 as part of the federally enforceable Indiana State Implementation Plan (SIP). 68 Fed. Reg. 23604, May 5, 2003.

13. 326 IAC 8-1-2 provides, in part, that one compliance method for achieving emission limitations for volatile organic compounds (VOCs) is a carbon adsorption system.

14. On July 13, 2007, EPA approved 326 IAC 8-1-6 as part of the federally enforceable SIP. 72 Fed. Reg. 32531, June 13, 2003.

15. 326 IAC 8-1-6, provides that new facilities (as of January 1, 1980) that have potential emissions of VOCs greater than 25 tons per year and are located anywhere in the state of Indiana and are not otherwise regulated by other provisions of 326 IAC Article 8, 326 IAC 20-

48, or 326 IAC 20-56 shall control emissions of VOCs using the best available control technology.

16. The Administrator of EPA (the Administrator) may assess a civil penalty of up to \$46,192 per day of violation up to a total of \$369,532 where the violations occurred after November 2, 2015, and for which penalties are assessed on or after January 15, 2018, under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

17. 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.

18. 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

19. Daramic owns and operates a microporous polymeric battery separator production facility at 3430 Cline Road NW, Corydon, Indiana.

20. Daramic owns or operates an "emission source" within the meaning of Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1). Therefore, Daramic is subject to the requirements of Section 114(a)(1).

21. Daramic's Title V Permit No. 061-31760-00012 states that VOC emissions during the operation of the oil extraction systems for Daramic's Sub-Micro (SM) Line 4, and SM Line 6 and related support equipment consisting of storage tanks (Unit ID #s 11.1 through 11.6) and the

recovery system, (smokehouse, Unit ID # 9.4), are subject to the best available control technology (BACT) requirements in the Indiana SIP at 326 IAC 8-1-6. The Indiana Department of Environmental Management (IDEM) determined that SM Line 3, which was installed in 1979, is not subject to 326 IAC 8-1-6.

22. Title V Permit No. 061-31760-00012 requirement D.1.1(a) requires that VOC emissions during operation of the oil extraction systems for SM Line 3, SM Line 4, and SM Line 6 and related support equipment, consisting of storage tanks (Unit ID #s 11.1 through 11.6) and the recovery system (smokehouse, Unit ID # 9.4), be controlled by a carbon adsorption system (CAS) with an overall control efficiency of no less than 96%.

23. Title V Permit No. 061-31760-00012 requirement D.1.3(a) requires that the CAS shall be in operation at all times and control the emissions from the oil extraction systems for SM Line 3, SM Line 4, and SM Line 6 and related support equipment consisting of storage tanks (Unit ID #s 11.1 through 11.6) and the recovery system (smokehouse, Unit ID # 9.4).

24. On September 20, 2016, EPA issued to Daramic a notice of violation alleging the following:

- a. Violation of the Indiana SIP at 326 IAC 8-1-6 on January 18, 2016 by not meeting the BACT limit of 96% control efficiency for VOC emissions as established in the Title V Permit No. 061-31760-00012.
- b. Violation of Condition D.1.1(a) in Title V Permit No. 061-31760-00012 by not achieving a control efficiency of at least 96% for VOC emissions routed to the CAS on January 18, 2016.
- c. Violation of the Indiana SIP at 326 IAC 8-1-2 by not capturing and routing emissions of VOCs from SM Line 3 to a CAS.

- d. Violation of Condition D.1.3(a) in Title V Permit No. 061-31760-00012 by not capturing and routing emissions of VOCs from SM Line 3 to the CAS as documented during the December 10, 2015 EPA inspection of the Corydon, Indiana facility.

25. On October 27, 2016, representatives of Daramic and EPA discussed the September 20, 2016 notice of violation.

26. Daramic violated Condition D.1.3(a) in Title V Permit No. 061-31760-00012 by not capturing and routing emissions of VOCs from SM Line 3 to the CAS as documented during the December 10, 2015 EPA inspection of the Corydon, Indiana facility.

Civil Penalty

27. 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 and any other factor such as cooperation and prompt return to compliance, Complainant has determined that an appropriate civil penalty to settle this action is \$90,000.

28. Within 30 days after the effective date of this CAFO, Respondent must pay a \$90,000 civil penalty by one of the following methods.

For checks sent by regular U.S. Postal Service mail sending a cashier's or certified check, 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

For checks sent by express mail sending a cashier's or certified check, 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 and the docket number of this CAFO.

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

Attn: Compliance Tracker (AE-18J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

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

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

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

31. If Respondent does not pay timely the civil penalty, then 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.

32. 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

33. Consistent with the Standing Order Authorizing E-Mail Service of Orders and Other Documents Issued by the Regional Administrator or Regional Judicial Officer under the Consolidated Rules, dated March 27, 2015, the parties consent to service of this CAFO by e-mail at the following e-mail addresses: smith.roberth@epa.gov (for Complainant), and ABowman@bgdlegal.com (for Respondent). The parties waive their right to service by the methods specified in 40 C.F.R. § 22.6.

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

35. The effect of the settlement described in paragraph 34, above, is conditioned upon the accuracy of Respondent's representations to EPA, as memorialized in paragraph 38 of this CAFO.

36. 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.

37. 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 34, above,

compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

38. Respondent certifies that it is complying fully with Condition D.1.3(a) of its Title V Permit, with the exception of the actions required to be completed in the Administrative Consent Order, EPA-5-17-113(a)-IN-03. Upon completion of the compliance actions described in the Administrative Consent Order, EPA-5-17-113(a)-IN-03, it shall be complying fully with this requirement of its Title V Permit.

39. 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).

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

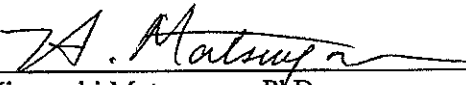
41. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

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

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


Daramic, LLC, Respondent

Feb. 15, 2019
Date


Hiroyoshi Matsuyama, PhD
Acting President
Daramic, LLC

United States Environmental Protection Agency, Complainant

2/27/19
Date



Edward Nam
Director
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5

Consent Agreement and Final Order
In the Matter of: Daramic, LLC
Docket No. CAA-05-2019-0012

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.

March 1, 2019
Date

Ann L. Coyle
Ann L. Coyle
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 5

Consent Agreement and Final Order
In the matter of: Daramic, LLC
Docket Number: CAA-05-2019-0012

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, docket number CAA05 2019 0012, which was filed on March 1, 2019, in the following manner to the following addressees:

Copy by Certified Mail to
Respondent:

David Stoltenberg
Polypore International, LP
11430 N. Community House Rd., Suite 350
Charlotte, NC 28277

Copy by E-mail to
Attorney for Complainant:

Rob Smith
smith.roberth@epa.gov

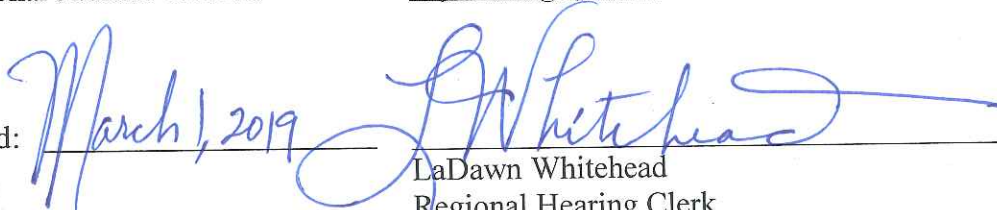
Copy by E-mail to
Attorney for Respondent:

Andy Bowman
ABowman@bgdlegal.com

Copy by E-mail to
Regional Judicial Officer:

Ann Coyle
coyle.ann@epa.gov

Dated: March 1, 2019



LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5

CERTIFIED MAIL RECEIPT NUMBER(S): 7011 1150 0000 2643 7657