



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

SEP 26 2012

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

REPLY TO THE ATTENTION OF:

Andrew H. Perellis  
Seyfarth Shaw LLP  
131 S. Dearborn Street, Suite 2400  
Chicago, Illinois

Re: Meyer Steel Drum, Inc., Chicago, Illinois

Dear Mr. Perellis:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves Meyer Steel Drum, Inc. d/b/a Meyer Steel Drum, and case docket no. **CAA-05-2012-0050**. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on **SEP 26 2012**.

Pursuant to paragraph 31 of the CAFO, Meyer Steel Drum, Inc. must pay the civil penalty within 30 days of **SEP 26 2012**. Your electronic funds transfer must display the case name In the Matter of: Meyer Steel Drum, Inc., d/b/a Meyer Steel Drum, the docket number **CAA-05-2012-0050** and the billing document number **2751203A051**.

Please direct any questions regarding this case to Mr. Luis Oviedo, Associate Regional Counsel, at 312.353.9538.

Sincerely,

A handwritten signature in black ink that reads "William L. MacDowell".

William MacDowell, Chief  
Air Enforcement and Compliance Assurance (MN/OH)

Enclosure

cc: Ann L. Coyle, Regional Judicial Officer/C-14J  
Regional Hearing Clerk/E-19J  
L. Oviedo/C-14J  
David Bloomberg, IEPA

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

<b>In the Matter of:</b>	)	<b>Docket No. CAA-05-2012-0050</b>
	)	
<b>Meyer Steel Drum, Inc. Chicago, IL</b>	)	<b>Proceeding to Assess a Civil Penalty Under Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d)</b>
	)	
<b>Respondent.</b>	)	
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**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 Meyer Steel Drum, Inc. (Meyer), a corporation doing business in Illinois.

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. Section 110(a)(1) of the Act, 42 U.S.C. § 7410(a)(1), requires each state to adopt and submit to the EPA for approval a State Implementation Plan (SIP) that provides for the implementation, maintenance, and enforcement of the National Ambient Air Quality Standards (NAAQS).

10. Under Section 110(a) of the Act, 42 U.S.C. § 7410(a), each SIP must include a permit program to regulate the modification and construction of any stationary source of air pollution as necessary to assure that NAAQS are achieved.

11. Pursuant to Section 113(a) and (b) of the CAA, 42 U.S.C. § 7413(a) and (b), upon the EPA approval, SIP requirements are federally enforceable under Section 113.

12. Under 40 C.F.R. § 52.23, any permit limitation or condition contained within a permit issued under an EPA-approved program that is incorporated in a SIP, is a requirement of the SIP, and is federally enforceable under Section 113.

13. On May 31, 1972, the EPA approved 35 Illinois Administrative Code (IAC) Part 201, "Permits and General Conditions," as part of the federally enforceable SIP for the State of Illinois. 37 Fed. Reg. 10,862 (May 31, 1972). Since then, the EPA has approved several revisions of 35 IAC Part 201 into the federally enforceable SIP.

14. Section 114(a) of the CAA, 42 U.S.C. § 114(a), empowers the EPA to seek information for “carrying out any provision” of the Act.

15. Section 113(a)(1) of the CAA, 42 U.S.C. § 7413(a)(1), authorizes the Administrator to initiate an enforcement action whenever, among other things, the Administrator finds that any person has violated or is in violation of a requirement or prohibition of an applicable implementation plan or permit.

16. Section 113(a)(3) of the CAA, 42 U.S.C. § 7413(a)(3), authorizes the Administrator to initiate an enforcement action whenever, among other things, the Administrator finds that any person has violated Section 114(a) of the CAA, 42 U.S.C. § 114(a).

17. 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 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 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.

18. 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.

19. 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**

20. Meyer owns and operates a steel drum reconditioning facility at 3201 South Millard Avenue, Chicago, Illinois.

21. Illinois EPA issued Construction Permit Application No. 06030011 (Permit) to Meyer to construct and operate a regenerative thermal oxidizer (RTO) system on June 5, 2006, pursuant to 35 IAC Part 201.

22. The Permit includes, among other items, the following requirements:

- a. Condition 5a.iii., which requires that “The Permittee shall operate the oxidizer system in accordance with written procedures developed and maintained for the operation of the system...A copy of these procedures shall be kept in the control room for the oxidizer system.”
- b. Condition 5b., which requires that “The Permittee shall, in accordance with the manufacturer(s) and/or vendor(s) recommendations, inspect and perform periodic maintenance on the oxidizer, including the capture ductwork to keep the system in proper working condition.”
- c. Condition 6a., which requires that “The oxidizer unit shall be equipped with a continuous monitoring device for combustion chamber temperature. This device shall be installed, calibrated, maintained, according to vendor’s specifications, and operated at all times that the oxidizer is in use. This device shall display current temperature and keeps records of average data on an hourly basis.”
- d. Condition 6b., which requires that “The Permittee shall keep a log for the operation and maintenance of this device.”

- e. Condition 8b., which requires that “The Permittee shall maintain the following records each day; i. An operating log for the operation of the oxidizer system and affected units. ii. A record of operating time for the capture ductwork, oxidizer, monitoring device, and the affected units.”
- f. Condition 8c., which requires that “The Permittee shall keep a maintenance log for the capture system and oxidizer detailing all routine and non-routine maintenance performed, including dates and duration of any outages.”
- g. Condition 8d., which requires that “The Permittee shall keep monthly records of the estimated reduction in VOM emissions achieved by the oxidizer system with supporting calculations, based on records kept pursuant to the CAAPP [Clean Air Act Permit Program] permit.”
- h. Condition 9, which requires that “All records required by this permit shall be maintained for five years at the source (or after the source is closed, at another site approved by the Illinois EPA) and shall be readily available to the Illinois EPA for inspection and copying upon request.”

23. On July 9, 2010, and April 5, 2011, EPA conducted on-site inspections at the facility.

24. On November 19, 2010, EPA sent a Section 114 Information Request dated November 18, 2010, to Meyer, which among other things, asked for copies of records that demonstrate the daily temperature of the RTO from the date of startup to the present.

25. Based on information obtained during the inspections and in the information request, EPA determined that Meyer violated Permit Conditions 5a.iii., 5b., 6a., 6b., 8b., 8c., 8d., and 9 from approximately September 2007 to August 2012.

26. EPA also determined that Meyer failed to fully respond to the November 19, 2010 Section 114 Information Request by not submitting all of the RTO temperature records it had in its possession.

27. Meyer was notified of these violations in a Notice of Violation and Finding of Violation issued by EPA on December 22, 2011.

28. EPA alleges that Meyer's failure to comply with Permit Conditions 5a.iii., 5b., 6a., 6b., 8b., 8c., 8d., and 9 from approximately September 2007 to August 2012, are violations of Section 110 of the CAA, 42 U.S.C. § 7410, the implementing regulation at 40 C.F.R. § 52.23; and Meyer's Construction Permit Application No. 06030011, which subjects Meyer to a penalty under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1).

29. EPA alleges that Meyer's failure to fully respond to the November 19, 2010 Section 114 Information Request is a violation of Section 114(a) of the CAA, 42 U.S.C. § 114(a), which subjects Meyer to a penalty under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1).

#### **Civil Penalty**

30. 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 Meyer's cooperation and prompt return to compliance, Complainant has determined that an appropriate civil penalty to settle this action is \$50,000.

31. Within 30 days after the effective date of this CAFO, Respondent must pay a \$50,000 civil penalty by 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 (non-U.S. Postal Service which won't deliver mail to P.O.

Boxes) 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, docket number of this CAFO and the billing document number.

32. 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 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

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



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

34. 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.

35. 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**

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

37. 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.

38. 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 36, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

39. Respondent certifies, to the best of its knowledge, that it is complying fully with its Construction Permit Application No. 06030011.

40. 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).

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

42. 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.

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

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

**Meyer Steel Drum, Inc., Respondent**

9-11-12  
Date

Robert Conway  
Bob Conway, General Manager  
Meyer Steel Drum, Inc.

**United States Environmental Protection Agency, Complainant**

9/21/12  
Date


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

**Consent Agreement and Final Order  
In the Matter of: Meyer Steel Drum, Inc.  
Docket No. CAA-05-2012-0050**

**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.

9-24-12  
Date

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

**CERTIFICATE OF MAILING**

I certify that I filed the original and one copy of the Consent Agreement and Final Order (CAFO), docket number CAA-05-2012-0050 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:

Andrew H. Perellis  
Seyyfarth Shaw LLP  
131 S. Dearborn St.  
Chicago, Illinois 60603

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

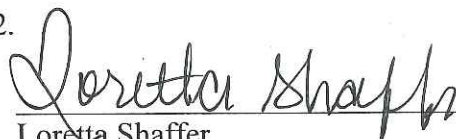
John Breslin  
Acting Regional Judicial Officer  
U.S. Environmental Protection Agency  
77 W. Jackson Boulevard / Mail Code C-14J  
Chicago, Illinois 60604

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

Ray Pilapil, Manager  
Bureau of Air  
Compliance and Enforcement Section  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
Springfield, IL 62702

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On the 26 day of September 2012.



Loretta Shaffer  
Administrative Professional Assistant  
Planning and Administration Section

CERTIFIED MAIL RECEIPT NUMBER: 70091680000076674508