



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

SEP 28 2010

REPLY TO THE ATTENTION OF:
AE-17J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Lee Nadler
President
Lakeside Lithography, LLC
Chicago, Illinois 60608

Dear Mr. Nadler:

Enclosed is a file stamped Consent Agreement and Final Order (CAFO) which resolves Lakeside Lithography, LLC. CAA Docket No. CAA-05-2010-0070. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on

~~SEP 30 2010~~

Pursuant to paragraph 42 of the CAFO, Lakeside Lithography, LLC must pay the \$4,123 civil penalty within 30 days of the date the CAFO was filed, November 1, 2010. The check must display the case docket number, CAA-05-2010-0070, and the billing document number, 2751003A069.

Please direct any questions regarding this case to Luis Oviedo, Associate Regional Counsel, (312) 353-9538.

Sincerely,

Brent Marable
Chief
Air Enforcement and Compliance Assurance IL/IN

Enclosure

cc: Ray Pilapil, Manager
Compliance and Enforcement Section
Illinois Environmental Protection

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:)
)
Lakeside Lithography, LLC)
Chicago, Illinois,)
)
Respondent.)
_____)

Docket No. CAA-05-2010-0070
Proceeding to Assess a Civil Penalty
Under Section 113(d) of the Clean Air
Act, 42 U.S.C. § 7413(d)

RECEIVED

SEP 30 2010

Consent Agreement and Final Order REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 113(d) of 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)(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, United States Environmental Protection Agency (U.S. EPA), Region 5 (Director or Complainant).
3. Respondent is Lakeside Lithography, LLC (Lakeside or Respondent), an Illinois Limited Liability Company 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 entry of this CAFO and the assessment of the specified civil

penalty, and agrees to comply with the terms of the CAFO.

Jurisdiction and Waiver of Right to Hearing

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

8. Lakeside 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 113(a)(3)(B) of the Act, 42 U.S.C. § 7413(a)(3)(B) authorizes the Administrator of U.S. EPA (Administrator) to issue an order requiring compliance with Title V of the Act to any person who has violated or is violating any requirement of Title V.

10. The Administrator has delegated her order authority to the Regional Administrator of U.S. EPA, Region 5 (Regional Administrator), pursuant to U.S. EPA Headquarters Delegation of Authority, Chapter 7-6-A

11. The Regional Administrator has delegated her order authority to the Director, pursuant to U.S. EPA Region 5 Delegation of Authority, Chapter 7-6-A.

12. The Administrator may require any person who owns or operates an emission source to make reports, monitor equipment, sample, and provide information she requires under Section 114(a)(1) of the Act, 42 U.S.C. § 7414(a)(1).

13. The Administrator has delegated her information gathering authority to the Regional Administrator, pursuant to U.S. EPA Headquarters Delegation of Authority, Chapter 7-8.

14. The Regional Administrator has delegated her information gathering authority to the Director, pursuant to U.S. EPA Region 5 Delegation of Authority, Chapter 7-8.

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

16. Under Section 110(a)(2) of the Act, 42 U.S.C. § 7410(a)(2), 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.

17. Pursuant to Section 113(a) and (b) of the Act, 42 U.S.C. § 7413(a) and (b), upon U.S. EPA approval, SIP requirements are federally enforceable under Section 113 SIP requirements become federally enforceable under Section 113 of the Act once the SIP is approved by U.S. EPA. See also 40 C.F.R. § 52.23.

18. The Illinois SIP was approved by U.S. EPA on May 31, 1972. 37 Fed. Reg. 10862.

19. ICPB Rule 103(a)(1) provides that no person shall cause or allow the construction of any new emission source or any new air pollution control equipment, or cause or allow the modification of any existing emission source of air pollution control equipment, without first obtaining a construction permit from the Illinois Environmental Protection Agency (IEPA).

20. IPCB Rule 103(a)(1) was recodified at 35 Illinois Administrative Code (IAC), Section 201.142, on June 29, 2007.

21. The Administrator may assess a civil penalty of up to \$27,500 per day of violation up to a total of \$220,000 for permit 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.

22. 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.

Factual Allegations and Alleged Violations

23. Lakeside owns and operates two metal coating lines at its facility at 1600 South Laflin Street, Chicago Illinois (the facility).

24. On March 1, 2007, Lakeside acquired the facility from Darco Metal Litho Co. (Darco).

25. Lakeside requested approval the transfer of all of Darco's existing permits in the Name and Ownership Change Information Form Number IL 532-2834, APC 620.

26. The transferred permits include Construction Permit No. 98080080 (construction permit), originally issued to Darco on November 23, 1998, for the construction of the two coating lines.

27. Lakeside currently operates its two coating lines under a "Revised" Lifetime Operating Permit, Application No. 75030088 (operating permit), which was issued on May 29, 2007.

28. Special Condition 1 of the construction permit and Special Condition 2(a) of the operating permit require, among other things, an overall control efficiency of at least 90 percent for volatile organic materials (VOM). The overall control efficiency requirement of the

construction permit is based on a capture efficiency of 100 percent and a destruction efficiency of greater than 90 percent.

29. On June 5, 2008, U.S. EPA conducted an inspection at Lakeside's facility.

30. The inspection found that the facility contained two coating lines, each producing volatile organic materials (VOMs) as a part of their ordinary processes that are vented into each line's thermal oxidizer control devices (the catalytic afterburner) to be destroyed.

31. During the actual coating process, each line uses a permanent total enclosure system (TES) to ensure that no VOMs escape the line before they are vented to the catalytic afterburners.

32. Lakeside's TES has access doors and a large garage door that may be opened when the coating line is not operating.

33. U.S. EPA's criteria for a permanent TES require that the total area of all natural draft openings (including all access doors and windows) shall not exceed five percent of the surface area of the enclosure's floor, ceiling and walls. 40 C.F.R. Part 51, Appendix M, Method 204.

34. When the large garage door is open at the facility, its total area of natural draft openings exceeds five percent of the surface area of the permanent TES.

35. On July 8, 2009, U.S. EPA sent a request for information (information request) pursuant to Section 114(a) of the Act, 42 U.S.C. § 7414(a), which required Lakeside to conduct VOM destruction efficiency tests for each of the two coating line catalytic afterburners.

36. On August 5, 2009, Lakeside conducted preliminary VOM destruction efficiency testing on each catalytic afterburner.

37. Lakeside did not conduct the August 5, 2009 tests pursuant to the test methods prescribed in the U.S. EPA information request.

38. The results showed a destruction efficiency of 73 percent destruction for the Line One catalytic afterburner and 78 percent destruction for the Line Two catalytic afterburner.

39. On September 18, 2009, Lakeside stipulated, based upon the results of the August 5, 2009 testing, that “had testing been completed in accordance with the Section 114 request, the results would have shown that the catalytic afterburners would not have achieved 90% reduction.”

Violations

40. U.S. EPA alleges that by not destroying at least 90 percent of the VOM entering the control device as described in Paragraphs 19 and 21 above, Lakeside violated Special Condition 1 of Permit Number 98080080 (“Construction Permit”).

41. U.S. EPA alleges that by not capturing 100 percent of the VOM entering the control device as described in Paragraphs 19 and 21 above, Lakeside violated Special condition 2(a) of Permit Number 75030088 (“Operating Permit”).

Civil Penalty

42. Based on analysis of the factors specified in Section 113(e) of the Act, 42 U.S.C. § 7413(e), the facts of this case, and Lakeside’s cooperation, good-faith efforts to come into compliance, Complainant has determined that an appropriate civil penalty to settle this action is \$4,123.00.

43. Within 30 days after the effective date of this CAFO, Respondent must pay a \$4,123.00 civil penalty by sending a cashier’s or certified check payable to the “Treasurer,

United States of America," to:

[for checks sent by regular U.S. Postal Service mail]

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

[for checks sent by express mail (non-U.S. Postal Service which won't deliver mail to P.O. Boxes)]

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

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

44. A transmittal letter stating Respondent's name, complete address, the case docket number, and the billing document number must accompany the payment. Respondent must send a copy of the check and transmittal letter to:

Attn: Regional Hearing Clerk, (E-13J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

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, IL 60604

Luis Oviedo, (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

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

46. If Respondent does not pay timely 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.

47. Pursuant to 31 C.F.R. § 901.9, 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. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must 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.

Supplemental Environmental Project

48. Respondent must complete two supplemental environmental projects (SEPs) designed to protect the environment and public health. The first SEP consists of funding and engaging a qualified contractor acceptable to EPA to perform a lead poisoning prevention and care abatement project for children in and around the facility's surrounding neighborhood at

1600 South Laflin Street, Chicago, Illinois (Laflin Street facility). The second SEP consists of installing more fuel efficient burner components and controls on the process lines of its Chicago facility.

49. Respondent must complete each SEP as follows: For the first SEP, the Respondent will contract with, engage and pay a local non-profit organization experienced in the completion of lead abatement work to promptly complete such work in and around its Laflin Street facility neighborhood in Chicago. Respondent shall require its contractor to conduct the SEP according to all applicable federal and state work practice and notification requirements including, but not limited to, the United States Department of Housing and Urban Development's *Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing* and the State of Illinois, unless otherwise specifically provided in this CAFO. For the gas burner project, Respondent will order the prescribed equipment within 90 days of the effective date of this Consent Agreement and Final Order and install it promptly after receipt. Lakeside's lead abatement SEPs shall be completed by December 30, 2010, and the gas burner SEP shall be completed by February 28, 2011. Respondent must spend at least \$15,000.00 for the lead abatement SEP, and it must make a capital expenditure of at least \$40,000.00 for the gas burner SEP.

50. Respondent certifies that it is not required to perform or develop the SEP by any law, regulation, grant, order, or agreement, or as injunctive relief as of the date it signs this CAFO. Respondent further certifies that it has not received, and is not negotiating to receive, credit for the SEP in any other enforcement action.

51. U.S. EPA may inspect the facility at any time to monitor Respondent's compliance with this CAFO's SEP requirements.

52. Respondent must maintain copies of the underlying research and data for all reports submitted to U.S. EPA according to this CAFO. Respondent must provide the documentation of any underlying research and data to U.S. EPA within seven days of U.S. EPA's request for the information.

53. Respondent must submit the reports required by the scope of work to U.S. EPA according to the schedule in paragraph 54.

54. Respondent must submit a SEP completion report to U.S. EPA by the thirteenth day after each SEP is completed. This report must contain the following information:

- a. Detailed description of the SEP as completed;
- b. Description of any operating problems and the actions taken to correct the problems;
- c. Itemized costs of goods and services used to complete the SEP documented by copies of invoices, purchase orders, or cancelled checks that specifically identify and itemize the individual cost of the goods and services;
- d. Certification that Respondent has completed the SEP in compliance with this CAFO; and
- e. Description of the environmental and public health benefits resulting from the SEP (quantify the benefits and pollution reductions, if feasible).

55. Respondent must submit all notices and reports required by this CAFO by first class mail 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, IL 60604

56. In each report that Respondent submits as provided by this CAFO, it must certify

that the report is true and complete by including the following statement signed by one of its officers:

I certify that I am familiar with the information in this document and that, based on my inquiry of those individuals responsible for obtaining the information, it is true and complete to the best of my knowledge. I know that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

57. Following receipt of the SEP completion report described in paragraph 54, above, U.S. EPA must notify Respondent in writing that:

- a. It has satisfactorily completed the SEP and the SEP report;
- b. There are deficiencies in the SEP as completed or in the SEP report and U.S. EPA will give Respondent 30 days to correct the deficiencies; or
- c. It has not satisfactorily completed the SEP or the SEP report and U.S. EPA will seek stipulated penalties under paragraph 59.

58. If U.S. EPA exercises option b, above, Respondent may object in writing to the deficiency notice within 10 days of receiving the notice. The parties will have 30 days from U.S. EPA's receipt of Respondent's objection to reach an agreement. If the parties cannot reach an agreement, U.S. EPA will give Respondent a written decision on its objection. Respondent will comply with any requirement that U.S. EPA imposes in its decision. If Respondent does not complete the SEP as required by U.S. EPA's decision, Respondent will pay stipulated penalties to the United States under paragraph 59, below.

59. If Respondent violates any requirement of this CAFO relating to the SEP, Respondent must pay stipulated penalties to the United States as follows:

- a. If Respondent spent less on the SEPs than the amount set forth in paragraph 49, above, Respondent must pay a stipulated penalty equal to the difference between the amount it spent on the SEPs and the amount set forth in paragraph 49.

- b. Subject to Paragraphs 57 and 58, If Respondent has completed the SEP but the SEP is not satisfactory, Respondent must pay \$2,500 in addition to any penalty required under subparagraph 59.a. above.
- c. If Respondent halts or abandons work on the SEPs, Respondent must pay a stipulated penalty of \$10,000 in addition to any penalty required under subparagraph 59.a. above. The penalty will accrue as of the date for completing the SEPs or the date performance ceases, whichever is earlier.
- d. If Respondent fails to comply with the schedule in paragraphs 49, above, for implementing the SEP, fails to submit timely the SEP completion report required by paragraph 54, above, or fails to submit timely any other report required by this CAFO, Respondent must pay stipulated penalties for each failure to meet an applicable milestone, as follows:

<u>Penalty per violation per day</u>	<u>Period of violation</u>
\$100	1 st through 30 th day
\$150	30 th through 60 th day
\$250	61 st day and beyond

These penalties will accrue from the date Respondent was required to meet each milestone until it achieves compliance with the milestone.

60. Subject to paragraph 58 above, U.S. EPA's determination of whether Respondent satisfactorily completed the SEP will bind Respondent.

61. Respondent must pay any stipulated penalties within 15 days of receiving U.S. EPA's written demand for the penalties. Respondent will use the method of payment specified in paragraph 43, above, and will pay interest, handling charges, and nonpayment penalties on any overdue amounts.

62. Any public statement that Respondent makes referring to the SEP must include the following language. "Respondent undertook this project under the settlement of the United States Environmental Protection Agency's enforcement action against Lakeside for violations of the Clean Air Act."

63. Force Majeure:

a. If any event occurs which causes or may cause delays in the completion of the SEPs as required under this Agreement, Respondent shall notify Complainant in writing not more than 10 days after the delay or Respondent's knowledge of the anticipated delay, whichever is earlier. The notice shall describe in detail the anticipated length of the delay, the precise cause or causes of the delay, the measures taken and to be taken by Respondent to prevent or minimize the delay, and the timetable by which those measures will be implemented. The Respondent shall adopt all reasonable measures to avoid or minimize any such delay. Failure by Respondent to comply with the notice requirements of this paragraph shall render this paragraph void and of no effect as to the particular incident involved and constitute a waiver of the Respondent's right to request an extension of its obligation under this Agreement based on such incident.

b. If the parties agree that the delay or anticipated delay in compliance with this Agreement has been or will be caused by circumstances beyond the reasonable control of Respondent, the time for performance hereunder may be extended for a period no longer than the delay resulting from such circumstances. In such event, the parties shall stipulate to such extension of time.

c. In the event that U.S. EPA does not agree that a delay in achieving compliance with the requirements of this CAFO has been or will be caused by circumstances the reasonable control of the Respondent, U.S. EPA will notify Respondent in writing of its decision and any delays in the completion of the SEP shall not be excused.

d. The burden of proving that any delay is caused by circumstances beyond the

reasonable control of the Respondent shall rest with the Respondent. Increased costs or expenses associated with the implementation of actions called for by this Agreement shall not, in any event, be a basis for changes in this Agreement or extensions of time under section (b) of this paragraph. Delay in achievement of one interim step shall not necessarily justify or excuse delay in achievement of subsequent steps.

e. For federal income tax purposes, Respondent will neither capitalize into inventory or basis, nor deduct any costs or expenditures incurred in performing the SEP.

General Provisions

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

65. Respondent agrees to implement the compliance program set forth in Administrative Consent Order, Docket No. EPA-5-10-113(a)-IL-02, between U.S. EPA and Respondent (ACO). The effect of this settlement is conditioned upon the accuracy of the Respondent's representations to U.S. EPA.

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

67. This CAFO does not affect Respondent's responsibility to comply with the Act and other applicable federal, state, and local laws. Except as provided in paragraph 64, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by Complainant.

68. Respondent certifies that it is complying fully with the applicable provisions of its "Revised" Lifetime Operating Permit (Application No. 75030088), for equipment constructed

pursuant to the Construction Permit (Number 98080080).

69. 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 Respondent’s “full compliance history” under Section 113(e) of the Act, 42 U.S.C. § 7413(e).

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

71. 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.

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

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

Lakeside Lithography, LLC, Respondent

9-27-10
Date



Lee Nadler, President
Lakeside Lithography, LLC

U.S. Environmental Protection Agency, Complainant

9/27/10
Date



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

CONSENT AGREEMENT AND FINAL ORDER

Lakeside Lithography, LLC

Docket No. CAA-05-2010-0070

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.

9-28-10
Date



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

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PROTECTION AGENCY

CONSENT AGREEMENT AND FINAL ORDER
Lakeside Lithography, LLC Chicago, Illinois
Docket No. CAA-05-2010-0070

CERTIFICATE OF SERVICE

I, Betty Williams, certify that I hand delivered the original and one copy of the Consent Agreement and Final Order, docket number CAA-05-2010-0070 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 Lakeside Lithography, LLC, by placing them in the custody of the United States Postal Service addressed as follows:

Lee Nadler
President
Lakeside Lithography, LLC
1600 South Laflin
Chicago, IL 60608

and

Ray Pilapil, Manager
Compliance and Enforcement Section
Bureau of Air
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, Illinois 62794

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REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

on the 30th day of September, 2010.



Betty Williams
Administrative Program Assistant
AECAS IL/IN

CERTIFIED MAIL RECEIPT NUMBER: 7009 1680 0000 7666 5537