

**U.S. EPA REGION 3
HEARING CLERK**

1. This Administrative Order (“Order”) is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) by Section 113(a) of the Clean Air Act (the “Act” or “CAA”), 42 U.S.C. § 7413(a).
2. The Administrator of the EPA delegated this authority under the CAA to the Regional Administrators. The Regional Administrator of the EPA Region 3 has redelegated this authority to the Director of the EPA Region 3 Enforcement and Compliance Assurance Division by EPA Delegation 7-6A.
3. Joe Darrah, Inc. d/b/a J & K Salvage (“Respondent”) is a corporation doing business in the Commonwealth of Pennsylvania. Respondent is a “person” as defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e).
4. Respondent signs this Order on Consent for purposes of reaching an amicable settlement with the EPA.
5. In satisfaction of the notice requirements of Section 113(a) of the CAA, 42 U.S.C. § 7413(a), on November 4, 2024, the EPA issued to Respondent a letter providing notice that the EPA found that Respondent committed the alleged violations described in Section C of this Agreement and providing Respondent an opportunity to confer with the EPA. The EPA provided a copy of the letter to the Pennsylvania Department of Environmental Protection (“PADEP”).

B. STATUTORY AND REGULATORY BACKGROUND

6. The CAA, 42 U.S.C. §§ 7401, *et seq.*, establishes a comprehensive program to “protect and enhance the quality of the Nation’s air resources so as to promote the welfare and productive capacity of its population.” 42 U.S.C. § 7401(b)(1).

National Ambient Air Quality Standards

7. Section 108(a) of the CAA, 42 U.S.C. § 7408(a), requires the Administrator of the EPA to identify and prepare air quality criteria for each air pollutant, emissions of which may endanger public health or welfare, and the presence of which results from numerous or diverse mobile or stationary sources. These pollutants are known as “criteria pollutants.” 42 U.S.C. § 7408.
8. Section 109 of the CAA, 42 U.S.C. § 7409, requires the EPA to promulgate regulations establishing primary and secondary national ambient air quality standards (“NAAQS”) for each criteria pollutant. The primary NAAQS shall be sufficient to protect the public health, allowing an adequate margin of safety, and the secondary NAAQS shall be sufficient to protect the public welfare from any known or anticipated effects associated with the presence of the air pollutants in the air.
9. Pursuant to Section 108 and 109 of the CAA, 42 U.S.C. §§ 7408 and 7409, the EPA has identified ground-level ozone, among others, as a criteria pollutant, and has promulgated NAAQS for this pollutant.
10. Certain precursors to ozone formation, such as volatile organic compounds (“VOC”) and nitrogen oxides (“NO_x”), are regulated as part of the air quality standards for ozone itself. 40 C.F.R. Part 50. Ozone is not emitted directly from sources of air pollution. Ozone is a photochemical oxidant formed when VOC and NO_x react in the presence of sunlight. VOC and NO_x are called “ozone precursors.” Sources that emit ozone precursors are regulated to reduce ground-level ozone. 62 Fed. Reg. 38,856 (July 18, 1997).
11. Under Section 107(d) of the CAA, 42 U.S.C. § 7407(d), each state is required to designate those areas within its boundaries where the air quality either meets or does not meet the NAAQS for each criteria pollutant, or where the air quality cannot be classified due to insufficient data. An area that meets the NAAQS for a particular criteria pollutant is termed an “attainment area” with respect to such pollutant. An area that does not meet the NAAQS for a particular criteria pollutant is termed a “nonattainment area” with respect to such pollutant.
12. Pursuant to Section 181 of the CAA, 42 U.S.C. § 7511, each area designated nonattainment for ozone shall be classified at the time of such designation as a marginal, moderate, serious, severe, or extreme area.
13. Section 110(a) of the CAA, 42 U.S.C. § 7410, requires each state to adopt and submit to

the Administrator of the EPA for approval a State Implementation Plan (“SIP”) that provides for the implementation, maintenance, and enforcement of such NAAQS.

14. Each SIP must include enforceable emission limitations, other control measures, and a program to provide for regulation of the modification and construction of any stationary source within the areas covered by the SIP as necessary to meet the applicable requirements of the CAA. 42 U.S.C. § 7410(a)(2)(A) and (C).
15. Upon the EPA’s approval, SIP requirements are federally enforceable under Section 113 of the CAA. 40 U.S.C. § 7413(a) and (b). *See also* 40 C.F.R. § 52.23. The EPA is authorized by Section 113 of the CAA, 42 U.S.C. § 7413, to take action to ensure that air pollution sources comply with all federally applicable air pollution control requirements. This includes requirements promulgated by the EPA and those contained in federally enforceable SIPs or permits.
16. The term "applicable implementation plan" is defined in Section 302(q) of the Act, 42 U.S.C. § 7602(q).
17. The applicable implementation plan for the Commonwealth of Pennsylvania is codified at 40 C.F.R. § 52.2020(c)(1).

The Pennsylvania State Implementation Plan

18. Pursuant to Section 110 of the CAA and Sections 4(1) and 5 of the Pennsylvania Air Pollution Control Act (“APCA”), 35 P.S. §§ 4004-4005, the Commonwealth of Pennsylvania adopted regulations that comprise the PA SIP. The PA SIP regulations as approved by the EPA are set forth in 40 C.F.R. § 52.2020.
19. The PA SIP regulations governing permitting for stationary source operations are currently codified at 25 Pa. Code Ch. 127. Relevant portions of Chapter 127 were included in the PA SIP approved by the EPA on July 30, 1996. 61 Fed. Reg. 39,597 (July 30, 1996), *as amended*.
20. Pursuant to Section 4(1) of the APCA, 35 P.S. § 4004(1), PADEP is authorized to implement the provisions of the CAA.

Pennsylvania Title V Permitting Program

21. Subchapter G (Title V Operating Permits) of the APCA, 25 Pa. Code §§ 127.501-127.543, describes the additional operating permit program requirements applicable to Title V facilities in addition to applicable requirements in Subchapter F (Operating Permit Requirements), 25 Pa. Code §§ 127.401-127.464.
22. A “Title V facility” is defined, among other things, as “[a] major stationary source as defined in Title I, Part D of the Clean Air Act (42 U.S.C. §§ 7501-7515), including: (B) For ozone transport regions established under section 184 of the Clean Air Act (42 U.S.C.

§ 7511c), sources with the potential to emit 50 [tons per year] tpy or more, of VOCs or 100 tpy or more of oxides of NO_x.” 25 Pa. Code § 121.1.

23. The Ozone Transport Region is defined to include the Commonwealth of Pennsylvania. 42 U.S.C. § 7511c(a).
24. Any facility within York County, Pennsylvania, that emits or has the potential to emit at least 50 TPY of VOC is considered a “major facility” and is subject to the requirements applicable to a major source located in a nonattainment area for ozone. 25 Pa. Code § 121.1.
25. “Potential to emit” (“PTE”) is defined as, “the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and limitations on hours of operation or on the type or amount of material combusted, stored or processed shall be treated as part of its design if the limitation or the effect it would have on emissions is Federally enforceable or legally and practicably enforceable by an operating permit condition.” 25 Pa. Code § 121.1.
26. Section 502(a) of the CAA, 42 U.S.C. § 7661a(a), prohibits the operation of a major source except those in compliance with a permit issued by a permitting authority under Title V of the CAA.
27. A facility whose PTE exceeds the Title V applicability threshold may, in lieu of applying for and obtaining a Title V operating permit, impose physical or operational limitations in order to reduce the emissions of that pollutant to below major source thresholds, in accordance with 40 C.F.R. § 52.21(b)(4), under a State Synthetic Minor Operating Permit in accordance with 25 Pa. Code § 127.402. *See also* definition for “Synthetic Minor Facility” under 25 Pa. Code § 121.1.

C. FINDINGS

28. The EPA alleges and adopts the Findings set forth immediately below.
29. Respondent is and, at all times relevant to the violations alleged herein, was the owner and operator of a metal scrap shredding facility (SIC Code 5093), located at 1099 Kings Mill Road, York, Pennsylvania 17403 (herein after “the Facility”).
30. On information and belief, Respondent began operating a scrap metal shredder at the Facility in 1999.
31. Pursuant to the EPA’s authority under Section 114(a) of the CAA, 42 U.S.C. § 7414(a), the EPA issued an information request to Respondent on March 3, 2023, to determine the Facility’s compliance with the CAA and applicable federal and state regulations.
32. On April 18, 2023, Respondent provided some of the requested information.

33. On August 13, 2024, pursuant to Section 114(a) of the CAA, 42 U.S.C. § 7414(a), the EPA issued a follow up information request to Respondent.
34. On September 20, 2024, Respondent provided the additional requested information to the EPA.
35. On November 4, 2024, the EPA sent Respondent a letter, pursuant to Section 113(a) of the CAA, 42 U.S.C § 7413(a), describing potential violations of provisions of the PA SIP and CAA.
36. On December 20, 2024, the EPA and representatives for Respondent participated in a conference call to discuss the alleged violations in the November 4, 2024 letter.
37. The EPA asserts that Respondent's Facility has a PTE more than 50 TPY VOCs and that, as a result, it was required, at the time of its construction, to either (1) apply for and obtain a Major Source Operating Permit in accordance with Section 502 of the CAA, 42 U.S.C. § 7661a(a) and 25 Pa. Code § 127.502, or (2) apply for and obtain a Synthetic Minor Operating Permit, in accordance with 25 Pa. Code § 127.402.
38. As of the date of this Order, Respondent continues to operate the facility without a Title V Operating Permit or an appropriate Synthetic Minor Operating Permit.
39. The EPA alleges that Respondent has failed to comply with Section 502 of the CAA, 42 U.S.C. § 7661a and the PA SIP, 25 Pa. Code § 127.502.
40. The EPA alleges that in failing to comply with the CAA, Respondent is subject to an administrative order under Section 113(a) of the CAA, 42 U.S.C. § 7413(a).
41. Based on the information currently available to the EPA, the Agency believes that the physical and/or operational limitations for the Facility's metal shredder, as set forth in paragraph 42 herein shall ensure the Facility maintains its PTE VOCs under 50 TPY pursuant to the CAA.

D. ORDER

42. Within one hundred and twenty (120) days from the Effective Date of this Order, Respondent shall submit to the PADEP for review and approval, an administratively complete permit application for the Facility for a Synthetic Minor Operating Permit ("Synthetic Minor Operating Permit Application") containing the following limitations and conditions on the Facility's metal shredder:
 - a. Maximum yearly average throughput of 50% automobiles by weight;
 - b. Maximum hourly shredder feed rate of no more than 100 gross tons/hour;
 - c. Maximum annual shredder processing rate of no more than 265,000 gross tons of total recyclable material feed to the shredder per year on a rolling 12-month basis; and

- d. The maximum rolling 12-month annual operating limit shall ensure that the Facility will not exceed a PTE of 50 TPY VOCs in any month, inclusive of all other VOC emitting sources located at the Facility.
43. Respondent shall submit to the EPA a copy of the Synthetic Minor Operating Permit Application within seven (7) days of its submission to the PADEP.
44. Respondent shall collect monitoring data and record daily operations for the metal shredder including:
- a. Maintaining a daily operation hours log; and
 - b. Maintaining a daily scrap log (for feed ratio), including:
 - i. Weight of total throughput; and
 - ii. Weight of total automobile throughput.
45. The daily reports described in paragraph 44 above, shall be submitted quarterly to the EPA providing both a summary of the operational hours and scrap feed ratio in addition to daily logs.
46. Until the date in which Respondent receives a final Synthetic Minor Operating Permit from the PADEP for its Facility with the above operational limitations and conditions, or until the Termination of this Order, whichever comes first, Respondent shall comply with the operational limitations, monitoring and reporting requirements described in paragraphs 42-45 above starting immediately after the Effective Date of this Order.
47. If Respondent fails to comply with the operational limitations described in Paragraph 42 above, Respondent shall notify the EPA in writing within seven (7) days of the date of non-compliance. Such notification shall include the date of non-compliance and describe, in detail, the cause of the non-compliance and actions Respondent will take to prevent future non-compliance. Any such deviation(s) shall be included in the quarterly report mentioned in paragraph 45 above.
48. Respondent reserves the right to supplement any submission to the EPA required by paragraph 45 above.
49. If Respondent would like to request a modification of the terms of the Order, Respondent shall submit to the EPA such modification(s) for review, in writing, with an explanation of the reason for each modification. Upon acceptance by the EPA in writing, the proposed modification(s) will be incorporated in an Amended Order and will become effective upon signature by the parties.
50. For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 162-21(b)(2), performance of paragraphs 42-45 is restitution, remediation, or required to come into compliance with the law.

E. OTHER TERMS AND CONDITIONS

51. Respondent admits the jurisdictional allegations contained in this Order and signs this Order on consent.
52. Respondent neither admits nor denies the findings in Section C of this Order.
53. In the event a force majeure event impacts the ability of Respondent to comply with the terms of the Order, Respondent shall contact the EPA at the earliest sign of potential non-compliance. For purposes of this Order, “force majeure” is defined as any event arising from causes beyond the control of Respondent, of any entity controlled by Respondent, or of Respondent’s contractors, that delays or prevents the compliance of the terms of this Order despite Respondent’s best efforts to fulfill its obligations. Increased costs or expenses associated with compliance, or a change in Respondent’s economic circumstances does not constitute force majeure. Respondent shall identify how a force majeure was the cause of the non-compliance, and the decisions and actions taken in response, including best efforts to comply with the Order. The EPA and Respondent shall work cooperatively to mutually agree to a reasonable modification to the terms of the Order. Respondent shall act responsibly under the circumstances to minimize the duration of any non-compliance with the Order caused by a force majeure.

F. GENERAL PROVISIONS

54. Any violation of this Order may result in a civil administrative or judicial action for an injunction or civil penalties of up to \$124,426 per day per violation, or both, as provided in Section 113(b)(2) of the Act, 42 U.S.C. § 7413(b)(2), or \$59,114 per day per violation, or both, as provided in Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), which reflects the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing the EPA’s civil penalty policies to account for inflation. Additionally, any violations of this Order may result in criminal sanctions as provided in Section 113(c) of the Act, 42 U.S.C. § 7413(c). The EPA may use any information submitted under this Order in an administrative, civil, judicial, or criminal action.
55. Nothing in this Order shall relieve Respondent of the duty to comply with all applicable provisions of the Act or other federal, state, or local laws or statutes, nor shall it restrict the EPA’s authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.
56. Nothing herein shall be construed to limit the power of the EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.
57. The provisions of this Order shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives,

successors, and assigns. From the Effective Date of this Order as set out in paragraph 61 below, until the Termination Date as set out in paragraph 63 below, Respondent must give written notice and a copy of this Order to any successors in interest prior to any transfer of ownership or control of any portion of or interest in Facility. Simultaneously with such notice, Respondent shall provide written notice of such transfer, assignment, or delegation to the EPA. In the event of any such transfer, assignment, or delegation, Respondent shall not be released from the obligations or liabilities of this Order unless the EPA has provided written approval of the release of said obligations or liabilities.

58. Unless this Order states otherwise, whenever, under the terms of this Order, written notice or other document is required to be given, it shall be directed to the individuals specified at the addresses below unless those individuals or their successors give notice of a change of address to the other party in writing:

Owen Ehret
U.S. EPA, Region 3 (3ED23)
Ehret.Owen@epa.gov

Harry Darrah, III
J & K Salvage
Hdarrah111@aol.com

All notices, documents, and submissions shall be considered effective upon receipt. Notices, documents, or submissions due to the EPA shall be sent via email to Ehret.Owen@epa.gov unless arrangements are otherwise made by contacting Owen Ehret at (215) 814-2129 or Ehret.Owen@epa.gov.

59. To the extent this Order requires Respondent to submit any information to the EPA, Respondent may assert a business confidentiality claim covering part or all of that information, but only to the extent and only in the manner described in 40 C.F.R. Part 2, Subpart B. The EPA will disclose information submitted under a confidentiality claim only as provided in 40 C.F.R. Part 2, Subpart B. If Respondent does not assert a confidentiality claim, the EPA may make the submitted information available to the public without further notice to Respondent.
60. Each undersigned representative of the Parties certifies that he or she is authorized to enter into the terms and conditions of this Order to execute and bind legally the Parties to this document.

G. EFFECTIVE DATE AND OPPORTUNITY FOR A CONFERENCE

61. Pursuant to Section 113(a)(4) of the Act, 42 U.S.C. § 7413(a)(4), an Order does not take effect until the person to whom it has been issued has had an opportunity to confer with the EPA concerning the alleged violations. By signing this Order, Respondent acknowledges and agrees that it has been provided an opportunity to confer with the EPA prior to issuance of this Order. Accordingly, this Order will take effect immediately

upon signature by the latter of Respondent or the EPA.

H. JUDICIAL REVIEW

62. Respondent waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this Order, including any right of judicial review under Section 307(b)(1) of the Clean Air Act, 42 U.S.C. § 7607(b)(1).

I. TERMINATION

63. This Order shall terminate on the earlier of the following (the "Termination Date") at which point Respondent shall operate in compliance with the Act:
- a. One year after the Effective Date of this Order;
 - b. The effective date of any determination by the EPA that Respondent must comply with new operational limitations in lieu of paragraph 42; or
 - c. Immediately upon receipt by Respondent of notice from the EPA finding that an imminent and substantial endangerment to public health, welfare, or the environment has occurred.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 3
BEFORE THE ADMINISTRATOR

In the Matter of:

Joe Darrah, Inc. d/b/a
J & K Salvage
1099 Kings Mill Road
York, Pennsylvania
17403

Administrative
Order on
Consent
EPA Docket No. CAA-03-2025-
0138DA

Respondent.

For United States Environmental Protection Agency, Region 3:

ANDREA BAIN

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Date: 2025.09.30 14:40:13
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Andrea Bain, Acting Division Director
Enforcement and Compliance Assurance Division
U.S. EPA, Region 3 (3ED00)
Philadelphia, PA 19103-2029

For Joe Darrah, Inc. d/b/a J & K Salvage:

Signature

Date

Printed Name:

Title:

Address:

9-15-25

HARRY DARRAH

Pres

1099 Kings Mill Rd

CERTIFICATE OF SERVICE

I certify that the foregoing "Administrative Order on Consent" in the Matter of Joe Darrah, Inc. d/b/a J & K Salvage, Order No. CAA-03-2025-138DA, was filed and copies of the same were served upon the parties as indicated below.

Via Electronic Mail:

Jared Mellott
Summers Nagy
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jmellott@summersnagy.com

Hannah G. Leone
Assistant Regional Counsel
U.S. EPA, Region 3 (3RC30)
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BEVIN ESPOSITO

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Regional Hearing Clerk