



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

JUN 29 2018

REPLY TO THE ATTENTION OF:

VIA E-MAIL
RETURN RECEIPT REQUESTED

David Piedrahita
Environmental Manager
Forest City Technologies, Inc.
299 Clay Street
Wellington, Ohio 44090

Email: dpiedrahita@forestcitytech.com

Dear Mr. Piedrahita:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves Forest City Technologies, Inc, docket no. CAA-05-2018-0012. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on

June 29, 2018

Pursuant to paragraph 24 of the CAFO, Forest City Technologies, Inc must pay the civil penalty within 30 days of the filing date. Your payment must display the case name and case docket number.

Please direct any questions regarding this case to Leonardo Chingcuanco, Associate Regional Counsel at Chingcuanco.leonardo@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Nathan Frank".

Nathan Frank, Chief
Air Enforcement and Compliance Assurance Section (IL/IN)

Enclosure

cc: Ann Coyle, Regional Judicial Officer/C-14J
Regional Hearing Clerk/E-19J
Leonardo Chingcuanco /C-14J
Julie Armitage /juile.armitage@illinois.gov

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket No. CAA-05-2018-0012
)	
Forest City Technologies, Inc.)	Proceeding to Assess a Civil Penalty
Rockford, Illinois)	Under Section 113(d) of the Clean Air Act,
)	42 U.S.C. § 7413(d)
Respondent.)	
_____)	



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 Forest City Technologies, Inc., 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. Each state must submit to the Administrator of EPA a plan for attaining and maintaining the National Ambient Air Quality Standards under Section 110 of the CAA, 42 U.S.C. § 7410.

10. On February 21, 1980, EPA approved major revisions to the federally enforceable State Implementation Plan (SIP) for Illinois, including the Use of Organic Material rule at Illinois Administrative Code Title 35, Subpart K. 45 Fed. Reg. 11,472.

11. Section 215.301 of the Illinois SIP states that “[n]o person shall cause or allow the discharge of more than 3.6 kg/hr (8 lbs/hr) of organic material into the atmosphere from any emission source” Ill. Admin. Code Tit. 35, § 215.301.

12. The Administrator of EPA (the Administrator) may assess a civil penalty of up to \$37,500 per day of violation up to a total of \$295,000 for CAA violations that occurred after January 12, 2009 through December 6, 2013, \$37,500 per day of violation up to a total of \$320,000 for CAA violations that occurred after December 6, 2013 through November 2, 2015 and \$46,192 per day of violation up to a total of \$369,532 for violations that occurred after

November 2, 2015 under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

13. 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.

14. 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

15. Forest City Technologies, Inc. (Forest City) is a "person" within the meaning of the Title 35 of the Illinois Administrative Code. Ill. Admin. Code Tit. 35, § 101.202.

16. Forest City owns and operates a metal parts coating facility at 892 Southrock Drive, Rockford, Illinois.

17. Forest City operates at least eleven metal parts coating lines at that facility that use solvents and adhesives that contain organic materials, including toluene and xylene. As such, Forest City is subject to the Illinois SIP for Use of Organic Material at 35 Ill. Admin. Code Part 215 Subpart K.

18. On February 18, 2016, EPA conducted an unannounced Clean Air Act inspection at the Facility.

19. On March 22, 2016, EPA issued an information request to Forest City pursuant to Section 114 of the CAA, 42 U.S.C. § 7414.

20. Forest City provided a response to the information request on May 5, 2016.

21. On August 4, 2016, EPA issued to Forest City a notice of violation alleging that it violated Section 215.301 of the Illinois SIP by discharging more than 8 pounds per hour of organic material into the atmosphere from one or more of its process units.

22. On September 20, 2016, representatives of Forest City and EPA began discussions of the August 4, 2016 notice of violation.

23. In June 2018, Forest City entered into an Administrative Consent Order (ACO) with EPA to prevent continuing violations of the Illinois SIP. That ACO requires, among other things, Forest City to install a recuperative thermal oxidizer and comply with the requirements of Ill. Admin. Code Part 215 Subpart K.

Civil Penalty

24. 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, cooperation and prompt return to compliance, Complainant has determined that an appropriate civil penalty to settle this action is \$48,000.

25. Within 30 days after the effective date of this CAFO, Respondent must pay a \$48,000 civil penalty by an on-line payment. To pay on-line, go to www.pay.gov. Use the Search Public Forms option on the tool bar and enter SFO 1.1 in the search field. Open the form and complete the required fields.

26. 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

Leonardo Chinguanco (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

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

28. If Respondent does not pay timely the civil penalty, 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.

29. 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

30. 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: chingcuanco.leonardo@epa.gov (for Complainant), and dpiedrahita@forestcitytech.com (for Respondent). The parties waive their right to service by the methods specified in 40 C.F.R. § 22.6.

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

32. 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.

33. 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 22, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

34. Respondent certifies that it is complying fully with the Illinois SIP.

35. 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).

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


37. 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.

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.

Forest City Technologies, Inc, Respondent

6/26/18
Date




John Cloud Jr.
President
Forest City Technologies, Inc

United States Environmental Protection Agency, Complainant

Date

6/29/18



Edward Nam

Director

Air and Radiation Division

U.S. Environmental Protection Agency, Region 5

Consent Agreement and Final Order
In the Matter of: Forest City Technologies
Docket No. CAA-05-2018-0012

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.

June 29, 2018
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: Forest City Technologies, Inc.
Docket Number: CAA-05-2018-0012

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, docket number CAA-05-2018-0012, which was filed on June 29, 2018, in the following manner to the following addressees:

Copy by E-mail to Respondent: David Piedrahita
dpiedrahita@forestcitytech.com

Copy by E-mail to Attorney for Complainant: Leonardo Chingcuanco
Chingcuanco.leonardo@epa.gov

Copy by E-mail to Regional Judicial Officer: Ann Coyle
coyle.ann@epa.gov

Dated: June 29, 2018



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