



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

MAR 30 2017

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

REPLY TO THE ATTENTION OF:

Frank Monteiro, Chief Operating Officer
Enthone, Inc.
9809 Industrial Drive
Bridgeview, Illinois 60455

Dear Mr. Monteiro:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves Enthone, Inc. (Enthone), docket no. CAA-05-2017-0019. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on March 30, 2017.

Pursuant to paragraph 43 of the CAFO, Enthone 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 Cathleen Martwick, Associate Regional Counsel, (312) 886-7166.

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/C-14J
Regional Hearing Clerk/E-19J
C. Martwick/C-14J
Yasmine Keppner-Bauman (by-email)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:

Enthone, Inc.
Bridgeview, IL

Respondent.



Docket No. CAA-05-2017-0019

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 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

The NESHAP for Area Sources of the Chemical Preparations Industry

9. Under Section 112 of the CAA, EPA promulgated the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Area Sources of the Chemical Preparations Industry, Subpart BBBBBBBB, (Subpart BBBBBBBB) at 40 C.F.R. §§ 63.11579 through 63.11588.

10. The NESHAP for Subpart BBBBBBBB applies to an owner or operator of a chemical preparations facility that is an area source of hazardous air pollutants (HAP) which has at least one chemical preparations operation in target HAP service, as defined in § 63.11588. 40 C.F.R. § 63.11579(a).

11. The NESHAP at 40 C.F.R. § 63.11588 defines “chemical preparation” as a target HAP-containing product, or intermediate used in the manufacture of other products, manufactured in a process operation described by the NAICS code 325998 if the operation manufactures target HAP-containing products or intermediates other than indelible ink, India ink, writing ink, and stamp pad ink. Indelible ink, India ink, writing ink, and stamp pad ink manufacturing operations are subject to regulation by the paints and allied products area source rule.

12. The NESHAP at 40 C.F.R. § 63.11588 defines “chemical preparations facility” as any facility-wide collection of chemical preparation operations.

13. The NESHAP at 40 C.F.R. § 63.11588 defines “chemical preparations operation” as the collection of mixing, blending, milling, and extruding equipment used to manufacture chemical preparations. A chemical preparation operation may include all, or only some, of the equipment listed above, depending on the chemical preparation being manufactured. Mixing and blending equipment may be used to process either wet or dry materials, or a combination of wet and dry materials. Milling equipment includes, but is not limited to, various types of rolling mills, rotary mills, and grinders. Extruding equipment, for the purposes of this subpart, includes direct and indirect extruders, spray driers, and prilling towers.

14. The NESHAP at 40 C.F.R. § 63.11588 defines “target HAP” as metal compounds for chromium, lead, manganese and nickel.

15. The NESHAP at 40 C.F.R. § 63.11588 defines “target HAP-containing” as raw materials, intermediates, or products that contain one or more target HAP. Any material that contains compounds of chromium (VI), lead, or nickel in amounts greater than or equal to 0.1 percent by weight (as the metal), or manganese or chromium (III) compounds in amounts greater than or equal to 1.0 percent by weight (as the metal) is considered to be target HAP-containing.

16. The NESHAP at 40 C.F.R. § 63.11588 defines “in target HAP service” as the equipment in the chemical preparation operation that either contains, contacts or is processing target HAP-containing materials.

17. 40 C.F.R. § 63.2 defines HAP as any air pollutant listed in or pursuant to section 112(b) of the Act.

18. 40 C.F.R § 63.2 and the NESHAP at 40 C.F.R. § 63.11579(a)(2) define an "area source" as any stationary source or group of stationary sources that is not a major source as defined in 40 C.F.R § 63.2.

19. 40 C.F.R § 63.2 defines a "major source" as any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year (TPY) or more of any hazardous air pollutant or 25 TPY or more of any combination of hazardous air pollutants, unless the Administrator establishes a lesser quantity, or in the case of radionuclides, different criteria from those specified in this sentence.

20. The NESHAP at 40 C.F.R. § 63.11579(b) refers to the affected source as all chemical preparations operations as defined in 40 C.F.R. § 63.11588.

21. 40 C.F.R. § 63.2 defines "affected source" as the collection of equipment, activities, or both within a single contiguous area and under common control that is included in a section 112(c) source category or subcategory for which a section 112(d) standard or other relevant standard is established pursuant to section 112 of the Act.

22. The NESHAP at 40 C.F.R. § 63.11584(c) requires the owner and operator of the chemical preparations operation to operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. The general duty to minimize emissions does not require the owner or operator to make any further efforts to reduce emissions if levels required by this standard have been achieved. Determination of whether such operation and maintenance procedures are being used will be based on information available to the Administrator which may include, but is not limited to, monitoring results,

review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the source.

23. The owner or operator of an existing affected source was required to comply with the requirements of 40 C.F.R. §§ 63.11579 through 63.11588 by December 30, 2010.

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

25. 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.

26. 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

27. Respondent owns and operates a chemical preparations facility at 9809 Industrial Drive, Bridgeview, Illinois.

28. Respondent is an area source that emits PM which contains nickel, chromium, and lead in amounts greater than 0.1 percent by weight (as the metal).

29. Respondent's chemical preparations facility includes, but is not limited to, the following chemical preparations operations:

- a. Powder Process
- b. Liquid Process
- c. Enplate Process
- d. Enthobrite Process

30. Respondent's chemical preparations operations have the following equipment and associated air pollution control equipment:

- a. Powder Process: 3 Powder Blenders with 2 Scrubbers (Scrubber 1 and 2)
- b. Liquid Process: 4 Process Tanks with 1 Scrubber (Scrubber 3)
- c. Activator Process: 6 Process Tanks with 1 Scrubber (Scrubber 4)
- d. Enplate Process: 4 Process Mixing Tanks with 1 Scrubber (Scrubber 5)
- e. Enthobrite Process: 6 Process Tanks with 1 Scrubber (Scrubber 6)
- f. UBAC Process: 6 Process Tanks with 1 Scrubber (Scrubber 7)

31. Respondent's chemical preparations operations equipment is in target HAP service and is processing target HAP-containing materials as it contains, contacts, or processes nickel, chromium and/or lead in amounts greater than 0.1 percent by weight (as the metal).

32. Respondent's chemical preparations operations are subject to the NESHAP Subpart BBBBBBBB.

33. EPA issued Respondent an information request under Section 114 of the Act on May 8, 2014. Respondent provided its response to the information request on June 3, 2014.

34. In Respondent's information request response it provided the following upper and lower thresholds for differential pressure and pH scrubber monitoring:

Scrubber	Differential pressure across demister pad in inches of water	pH range
Scrubber 3 (Liquid)	0-4	7-9
Scrubber 4 (Activator)	0-4	7-9
Scrubber 5 (Enplate)	0-4	7-9
Scrubber 6 (Enthobrite)	0-4	7-9
Scrubber 7 (UBAC)	0-4	7-9

35. According to Respondent's scrubber maintenance records and process operation records for the Powder, Liquid, Enplate, and Enthobrite Processes and associated scrubbers, Respondent operated the processes during time periods when the associated scrubber required maintenance. The table below highlights those periods and the identified maintenance required:

Scrubber ID (Process)	Description of Scrubber Issue	Duration of Scrubber Issue	Days of Operation during the period
Scrubber 3 (Liquid)	The scrubber in the Liquid Room keeps shutting off	May 23, 2011 through June 27, 2011	8 days
Scrubber 5 (Enplate)	The scrubber pump in the Enplate Room keeps shutting off.	April 16, 2014 through April 21, 2014	3 days
Scrubber 5 (Enplate)	The scrubber's acid pump in the Enplate Room does not work.	January 21, 2011 through August 24, 2011	81 days
Scrubber 6 (Enthobrite)	The scrubber in the Enthobrite Room does not work properly	July 8, 2013 through July 29, 2013	8 days

36. According to Respondent's daily scrubber logs, Respondent operated Scrubber 4 with a differential pressure greater than 4 inches of water across the demister pad on the dates listed in the following table:

Date	Room	Scrubber	Recorded Differential Pressure	Staff Notes
3/29/2011	Activator	4	4.2	
3/30/2011	Activator	4	4.3	
3/31/2011	Activator	4	4.2	
10/12/2011	Activator	4	8	
1/23/2012	Activator	4	4.4	"told maintenance pressure is high, told me its no problem"
1/24/2012	Activator	4	4.5	"told maintenance pressure is high, told me its no problem"
1/26/2012	Activator	4	4.2	"told maintenance pressure is high, told me its no problem"

37. According to Respondent's daily scrubber logs, Respondent operated Scrubber 5 with a differential pressure greater than 4 inches of water across the demister pad on the dates listed in the following table:

Date	Room	Scrubber	Recorded Differential Pressure
1/18/2013	Enplate	5	5.6
1/19/2013	Enplate	5	5.2

38. According to Respondent's daily scrubber logs, Respondent operated Scrubber 7 with a differential pressure greater than 4 inches of water across the demister pad on the date listed in the following table:

Date	Room	Scrubber	Recorded Differential Pressure
5/18/2011	UBAC	7	6
5/18/2011	UBAC	7	4.2

39. During EPA's March 3, 2014 inspection, EPA staff recorded the following pH values for the Scrubbers 3, 4, 6 and 7:

Scrubber Number	Operating pH during Inspection
Scrubber 3	10.56
Scrubber 4	9.5
Scrubber 6	9.72
Scrubber 7	11

40. On September 24, 2015 and March 11, 2016, EPA issued to Respondent a finding of violation alleging that it violated the NESHAP Subpart BBBBBBBB for failing to operate and maintain its scrubbers in a manner consistent with good air pollution control practices for minimizing emissions in violation of the NESHAP BBBBBBBB.

41. By operating a scrubber associated with equipment involved in a chemical preparation operations process, at times when it required maintenance or was outside of its operating range, as listed in paragraphs 35-39, Respondent violated 40 C.F.R. § 63.11584(c).

Civil Penalty

42. 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 Respondent's cooperation in resolving this matter, Complainant has determined that an appropriate civil penalty to settle this action is \$55,000.

43. Within 30 days after the effective date of this CAFO, Respondent must pay a \$55,000 civil penalty by 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

44. The check must note Respondent's name and the docket number of this CAFO.

45. 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

Cathleen Martwick (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

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

47. 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.

48. 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 attorney's 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

49. 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: martwick.cathleen@epa.gov (for Complainant), and Vic.Michels@pspcorporate.com (for Respondent). The parties waive their right to service by the methods specified in 40 C.F.R. § 22.6.

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

51. 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.

52. 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 50, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

53. Respondent certifies that it is complying fully with the NESHAP for Area Sources of the Chemical Preparations Industry.

54. 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).

55. The terms of this CAFO bind Respondent, its successors and assigns of its chemical preparation operation business in Bridgeview, Illinois.

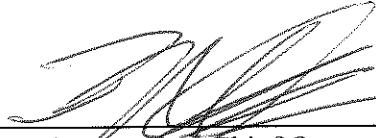
56. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

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

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

Enthone, Inc., Respondent


3/20/17
Date



Frank Monteiro, Chief Operating Officer
Enthone, Inc.

United States Environmental Protection Agency, Complainant

3/28/18
Date



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

Consent Agreement and Final Order
In the Matter of: Enthone Inc
Docket No. CAA-05-2017-0019

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.

3/29/17
Date

for Deborah K. Smith
Ann L. Coyle
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 5

Consent Agreement and Final Order
In the matter of: Enthone Inc.
Docket Number: CAA-05-2017-0019

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, docket number CAA-05-2017-0019, which was filed on March 30, 2017, in the following manner to the following addressees:

Copy by Certified Mail to
Respondent:

Frank Monteiro, Chief Operating Officer
Enthone, Inc.
9809 Industrial Drive
Bridgeview, Illinois 60455

Copy by E-mail to
Attorney for Complainant:

Cathleen Martwick
Martwick.cathleen@epa.gov


Copy by E-mail to
Attorney for Respondent:

Vic Michels
Vic.michels@pspcorporate.com

Copy by E-mail to
Regional Judicial Officer:

Ann Coyle
coyle.ann@epa.gov

Dated: March 30, 2017



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

CERTIFIED MAIL RECEIPT NUMBER(S): 7009 1680 0000 7647 3798