

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5



In the Matter of: )  
)  
Garden St. Iron & Metal, Inc. )  
Cincinnati, Ohio )  
Respondent. )  
\_\_\_\_\_ )

Docket No. CAA-05-2024-0029  
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**

1. Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency (EPA), Region 5, brought this administrative action seeking a civil penalty under Section 113(d) of the Clean Air Act (the CAA), 42 U.S.C. § 7413(d).

2. On February 29, 2024, EPA filed the Complaint in this action against Respondent Garden Street Iron & Metal, Inc. The Complaint alleges that Respondent violated Section 608 of the CAA, 42 U.S.C. § 7671g, and 40 C.F.R. Part 82, Subpart F at its facility in Cincinnati, Ohio.

**Stipulations**

3. Respondent admits the jurisdictional allegations in the Complaint and neither admits nor denies the factual allegations in the Complaint.

4. Respondent waives any right to contest the allegations in the Complaint and its right to appeal this Consent Agreement and Final Order (CAFO).

5. Respondent certifies that it is complying fully with 40 C.F.R. Part 82, Subpart F.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

7. The parties agree that settling this action without further litigation, upon the terms in this CAFO, is in the public interest.

### **Civil Penalty**

8. In consideration of an analysis of the factors specified in Section 113(e) of the CAA, 42 U.S.C. § 7413(e) and the facts of this case, Respondent agrees to pay a civil penalty, in the amount of ONE HUNDRED AND FIFTY THOUSAND DOLLARS (\$150,000), that is to be paid within thirty (30) calendar days of the Effective Date of this Consent Agreement and Final Order (CAFO).

9. Respondent agrees to pay the civil penalty specified in Paragraph 8, above, using any method provided in the table on the next page.

Payment Method	Payment Instructions
<p>Automated Clearinghouse (ACH) payments made through the US Treasury</p>	<p>US Treasury REX/Cashlink ACH Receiver            ABA: 051036706            Account Number: 310006, Environmental Protection Agency            CTX Format Transaction Code 22 – checking</p> <p>In the comment area of the electronic funds transfer, state Respondent’s name and the CAFO docket number.</p>
<p>Wire transfers made through Fedwire</p>	<p>Federal Reserve Bank of New York            ABA: 021030004            Account Number: 68010727            SWIFT address: FRNYUS33            33 Liberty Street            New York, NY 10045            Beneficiary: US Environmental Protection Agency</p> <p>In the comment area of the electronic funds transfer, state Respondent’s name and the docket number of this CAFO.</p>
<p>Payments made through <a href="https://www.pay.gov">Pay.gov</a></p> <p>Payers can use their credit or debit cards (Visa, MasterCard, American Express &amp; Discover) as well as checking account information to make payments.</p>	<ul style="list-style-type: none"> <li>• Go to <a href="https://www.pay.gov">Pay.gov</a> and enter “SFO 1.1” in the form search box on the top left side of the screen.</li> <li>• Open the form and follow the on-screen instructions.</li> <li>• Select your type of payment from the "Type of Payment" drop down menu.</li> <li>• Based on your selection, the corresponding line will open and no longer be shaded gray. Enter the CAFO docket number into the field</li> </ul>
<p>Cashier’s or certified check payable to “Treasurer, United States of America.”</p> <p>Please notate the CAFO docket number on the check</p>	<p>For <b>standard delivery</b>:</p> <p>U.S. Environmental Protection Agency            Fines and Penalties            Cincinnati Finance Center            P.O. Box 979078            St. Louis, Missouri 63197-9000</p> <p>For <b>signed receipt confirmation</b> (FedEx, UPS, Certified Mail, etc):</p> <p>U.S. Environmental Protection Agency            Government Lockbox 979078            3180 Rider Trail S.            Earth City, Missouri 63045</p>

10. Within 24 hours of the payment of the civil penalty Respondent must send a notice of payment which states Respondent's name and the docket number of this CAFO to EPA at the following addresses:

Air Enforcement and Compliance Assurance Branch  
U.S. Environmental Protection Agency, Region 5  
[R5airenforcement@epa.gov](mailto:R5airenforcement@epa.gov)

Amanda Urban  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 5  
[urban.amanda@epa.gov](mailto:urban.amanda@epa.gov)

Andrew Futerman  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 5  
[futerman.andrew@epa.gov](mailto:futerman.andrew@epa.gov)

Regional Hearing Clerk (E-19J)  
U.S. Environmental Protection Agency, Region 5  
[r5hearingclerk@epa.gov](mailto:r5hearingclerk@epa.gov)

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

12. 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.

13. 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).

14. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service (IRS) annually, a completed IRS Form 1098-F (“Fines, Penalties, and Other Amounts”) with respect to any court order or settlement agreement (including administrative settlements), that require a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor’s violation of any law or the investigation or inquiry into the payor’s potential violation of any law, including amounts paid for “restitution or remediation of property” or to come “into compliance with a law.” EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number (“TIN”), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 U.S.C. § 301.6723-1. In order to provide EPA with sufficient information to enable it to fulfill these obligations, EPA herein requires, and Respondent herein agrees, that:

- a. Respondent shall complete an IRS Form W-9 (“Request for Taxpayer Identification Number and Certification”), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
- b. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent’s correct TIN or that Respondent has applied and is waiting for issuance of a TIN;
- c. Respondent shall email its completed Form W-9 to EPA’s Cincinnati Finance Center at [Wise.Milton@epa.gov](mailto:Wise.Milton@epa.gov), within 30 days after the effective date of this order per

paragraph 25, and EPA recommends encrypting IRS Form W-9 email correspondence;  
and

- d. In the event that Respondent has certified in its completed IRS Form W-9 that it does not yet have a TIN but has applied for a TIN, Respondent shall provide EPA's Cincinnati Finance Center with Respondent's TIN, via email, within five (5) days of Respondent's receipt of a TIN issued by the IRS.

### **General Provisions**

15. The parties consent to service of this CAFO by e-mail at the following e-mail addresses: [urban.amanda@epa.gov](mailto:urban.amanda@epa.gov) and [futerman.andrew@epa.gov](mailto:futerman.andrew@epa.gov) (for Complainant), and [cwalker@walkerenvironmentallaw.com](mailto:cwalker@walkerenvironmentallaw.com) (for Respondent). The parties waive their right to service by the methods specified in 40 C.F.R. § 22.6.

16. Respondent understands that the CAFO will become publicly available upon filing.

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

18. This 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.

19. 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 17, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

20. This CAFO constitutes an "enforcement response" as that term is used in EPA's Clean Air Act Stationary Source Civil Penalty Policy to determine Respondent's "full compliance history" under Section 113(e) of the CAA, 42 U.S.C. § 7413(e).

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

22. Each person signing this CAFO 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.

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

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

#### **IX. Effective Date**

25. The parties agree to the issuance of the attached proposed Final Order. Upon filing, EPA will transmit a copy of the filed CAFO to Respondent. This CAFO shall become effective after execution of the Final Order by the Regional Judicial Officer on the date of filing with the Regional Hearing Clerk.

Garden Street Iron & Metal, Inc., Respondent

Mar 28, 2024

Date



Earl Weber (Mar 28, 2024 12:46 EDT)

Earl Weber, Jr. , President



**United States Environmental Protection Agency, Complainant**

**MICHAEL  
HARRIS**

Digitally signed by  
MICHAEL HARRIS  
Date: 2024.04.08  
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Michael D. Harris  
Division Director  
Enforcement and Compliance Assurance Division  
U.S. Environmental Protection Agency, Region 5

**Consent Agreement and Final Order**  
**In the Matter of: Garden Street Iron & Metal, Inc.**  
**Docket No. CAA-05-2024-0029**

**Final Order**

This Consent Agreement and Final Order, as agreed to by 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.

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Date

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Ann L. Coyle  
Regional Judicial Officer  
U.S. Environmental Protection Agency  
Region 5