



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

AUG 19 2014

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mark A. Beemer
Aventine Renewable Energy, Inc.
1300 South 2nd Street
Pekin, Illinois 61554

Dear Mr. Beemer:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves the matter regarding Aventine Renewable Energy – Mt. Vernon, LLC located in Mt. Vernon, Indiana, docket number CAA-05-2014-0045. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on AUG 19 2014.

Pursuant to paragraph 66 of the CAFO, Aventine Renewable Energy, Inc. must pay the civil penalty within 30 days of AUG 19 2014. Your electronic funds transfer must display the case name Aventine Renewable Energy – Mt. Vernon, LLC and the docket number CAA-05-2014-0045.

Please direct any questions regarding this case to Cynthia A. King, Associate Regional Counsel, (312) 886-6831.

Sincerely,

Sarah Marshall, Chief
Air Enforcement and Compliance Assurance Branch, MI/WI Section

Enclosure

cc: Ann Coyle Regional Judicial Officer/C-14J
Regional Hearing Clerk/E-19J
Cynthia A. King/C-14J
Matthew Read/ Hodge, Dwyer & Driver
Phil Perry, IDEM

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket No. CAA-05-2014-0045
)	
Aventine Renewable Energy –)	Proceeding to Assess a Civil Penalty
Mt. Vernon, LLC)	Under Section 113(d) of the Clean Air Act,
Mt. Vernon, Indiana)	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 Aventine Renewable Energy –Mt. Vernon, LLC (Aventine or Respondent), a Delaware Limited Liability Company registered to do business in Indiana. Aventine owns and operates an ethanol manufacturing facility at 7201 Port Road, Mt. Vernon, Indiana (the facility). At the facility, Aventine manufactured denatured ethanol and both wet and dried distiller's grain.
4. Under 40 C.F.R. § 22.13(b), 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).

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. Section 112(d) of the CAA, 42 U.S.C. § 7412(d), requires EPA to promulgate regulations establishing emission standards for each category of major sources and area sources of hazardous air pollutants. These standards are known as “National Emission Standards for Hazardous Air Pollutants” or “NESHAPs.”

10. Under Section 112(d) of the CAA, 42 U.S.C. § 7412(d), EPA promulgates NESHAPs for categories of sources and codifies those requirements at 40 C.F.R. Part 63.

11. The NESHAP for Miscellaneous Organic Chemical Manufacturing is codified at 40 C.F.R. Part 63, Subpart FFFF.

12. Under the Subpart FFFF NESHAP, 40 C.F.R. § 63.2515(b), the facility was required to submit an Initial Notification by March 30, 2011.

13. Under the Subpart FFFF NESHAP, 40 C.F.R. § 63.2515(c), the facility was required to submit a Notification of a Performance Test(s) and conduct applicable performance tests by November 30, 2010.

14. Under the Subpart FFFF NESHAP, 40 C.F.R. § 63.2520(d), and Table 11, the facility was required to submit a Notification of Compliance Status by April 29, 2011.

15. Under the Subpart FFFF NESHAP, 40 C.F.R. §§ 63.2520(b)(2), 63.2520(e), and Table 11, the facility was required to submit a Compliance Report by April 29, 2011.

16. Under the Subpart FFFF NESHAP, 40 C.F.R. § 63.2450(a), and Tables 1 through 10, a facility is subject to the emission limits and work practice standards for the following emission units:

- a. Continuous process vents;
- b. Batch process vents;
- c. Storage tanks;
- d. Transfer racks;
- e. Equipment leaks;
- f. Waste water streams and liquid streams in open systems; and
- g. Heat exchangers.

17. Under the Subpart FFFF NESHAP, 40 C.F.R. § 63.6(e)(3), a facility is required to develop a startup, shutdown and malfunction (SSM) plan.

18. Section 502(a) of the CAA, 42 U.S.C. § 7661a(a), provides that no source may operate without a Title V permit after the effective date of any permit program approved or promulgated under Title V of the CAA.

19. EPA first promulgated regulations governing state operating permit programs on July 21, 1992 (57 Fed. Reg. 32295). These regulations are codified at 40 C.F.R. Part 70. EPA promulgated regulations governing the Federal operating permit program on July 1, 1996 (61 Fed. Reg. 34228). These regulations are codified at 40 C.F.R. Part 71.

20. Section 503 of the CAA, 42 U.S.C. § 7661b, and 40 C.F.R. § 70.5, set forth the requirement to submit a timely, accurate, and complete application for a permit, including information required to be submitted with the application.

21. Section 504(a) of the CAA, 42 U.S.C. § 7661c(a), and 40 C.F.R. § 70.6, require that each Title V permit include enforceable emission limitations and standards, a schedule of compliance, and other conditions necessary to assure compliance with applicable requirements, including those contained in a state implementation plan.

22. EPA approved Indiana's Title V program on December 4, 2001, 66 Fed. Reg. 62969.

23. The Indiana Department of Environmental Management (IDEM) issued federally-enforceable New Source Construction and Part 70 Operating Permit No. 129-24836-0051 (Title V Permit) for the facility on September 20, 2007.

24. The Administrator of EPA (the Administrator) may assess a civil penalty of up to \$32,500 per day for each violation, with a maximum of \$270,000, for violations that occurred after March 15, 2004 through January 12, 2009, and a civil penalty of up to \$37,500 per day of each violation, with a maximum of \$295,000, for violations that occurred after January 12, 2009, and a civil penalty of \$37,500 per day for each violation, with a maximum of \$320,000 for violations that occur after December 5, 2013, 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. The facility was in operation between November, 2010 and February, 2012.

28. Since November 30, 2010, the facility has been subject to the requirements of 112(d) of the CAA, 42 U.S.C. § 7412(d), and the implementing regulations at 40 C.F.R. Part 63, Subpart FFFF.

29. EPA inspected the Aventine facility on September 29, 2011.

30. EPA issued an Information Request to the facility under Section 114 of the Act, 42 U.S.C. § 7414, on November 3, 2011. Aventine provided the requested information on January 24, 2012.

31. On September 18, 2012, EPA issued a Notice and Finding of Violation to Aventine.

32. On November 29, 2012, EPA and Aventine met to discuss the Notice and Finding of Violation.

33. Condition D.1.1 of the Title V Permit requires that the facility meet an emission limit for particulate matter and particulate less than 10 microns (PM/PM₁₀) of 0.05 pounds per hour (lb/hr) from the baghouses controlling emissions from the hammermills.

34. From August 29, 2011 until February 13, 2012, the facility failed to meet the emission limit for PM/PM₁₀ of 0.05 lb/hr from the baghouses controlling hammermills #2 and #4 (each separately) as required by Title V Permit condition D.1.1.

35. Condition D.1.1 of the Title V Permit requires that the facility meet an emission limit for PM/PM₁₀ of 0.02 lb/hr from the baghouses controlling emissions from the DDG loadout.

36. From September 1, 2011 until February 13, 2012, the facility failed to meet the emission limit for PM/PM₁₀ of 0.02 lb/hr from DDG loadout via a separate baghouse as required by Title V Permit condition D.1.1.

37. Condition D.1.1 of the Title V Permit requires that the facility meet an emission limit for PM/PM₁₀ of 0.26 lb/hr from the baghouses controlling emissions from the grain receiving (truck and rail dump pits).

38. From October 5, 2011 until February 13, 2012, the facility failed to meet the emission limit for PM/PM₁₀ of 0.26 lb/hr from grain receiving via a separate baghouse as required by Title V Permit conditions D.1.1 and D.1.5.

39. Condition D.1.7.b of the Title V Permit requires that the facility meet a pressure drop across the baghouses controlling emissions from grain receiving and the hammermills within the range of 1 to 6 inches of water (in H₂O).

40. For 76 days from January 1, 2011, until October 31, 2011, the facility failed to achieve a pressure drop across grain receiving and hammermill baghouses within the range of 1 to 6 inches of water (in H₂O) as required by Title V Permit condition D.1.7.b.

41. Condition D.2.2 of the Title V Permit requires that the facility meet an emission limit for nitrogen oxides (NO_x) of 0.0432 lb/mm BTU from RTO #2.

42. From May 11, 2011, until August 30, 2011, the facility failed to meet the emission limit for NO_x of 0.0432 lb/mm BTU from RTO #2 as required by Title V Permit condition D.2.2.

43. Condition D.2.4 of the Title V Permit requires that the facility meet an emission limit for PM/PM₁₀ of 4.0 lb/hr from RTO #2.

44. From August 30, 2011 until February 13, 2012, the facility failed to meet the emission limit for PM/PM₁₀ of 4.0 lb/hr from RTO #2 as required by Title V Permit condition D.2.4.

45. Condition D.2.1 of the Title V Permit requires that the facility meet an emission limit for PM/PM₁₀ of 4.0 lb/hr from RTO #1.

46. From August 31, 2011 until February 13, 2012, the facility failed to meet the emission limit for PM/PM₁₀ of 4.0 lb/hr from RTO #1 as required by Title V Permit condition D.2.1.

47. Condition D.3.1 of the Title V Permit requires that the facility meet an emission limit for PM/PM₁₀ of 0.07 lb/hr from the CO₂ scrubber.

48. From September 1, 2011 until February 13, 2012, the facility failed to meet the emission limit for PM/PM₁₀ of 0.07 lb/hr from the CO₂ scrubber as required by Title V Permit condition D.3.1.

49. Condition D.3.6 of the Title V Permit requires the facility meet a minimum flow rate of 100 gallons per minute (gpm) of scrubbing liquor for the CO₂ scrubber.

50. For 343 hours from December 1, 2010 until November 19, 2011, the facility failed to operate the CO₂ scrubber at a minimum flow rate of 100 gpm of scrubbing liquor as required by Title V Permit condition D.3.6.

51. Condition D.3.6 of the Title V Permit requires that the facility record the operating pressure drop over the CO₂ scrubber on a daily basis as shown in Title V Permit condition D.3.6.

52. From January 1, 2011 until October 31, 2011, the facility failed to record the operating pressure drop over the CO₂ scrubber for 35 days as required by Title V Permit condition D.3.6.

53. Condition D.2.13a of the Title V Permit requires that the facility maintain the minimum temperature of 1600° F for both thermal oxidizers (RTO #1 and RTO #2).

54. For 87 days from January 1, 2011 until October 31, 2011, the facility failed to maintain the minimum temperature of 1600° F in the thermal oxidizers (RTO #1 and RTO #2) as required by Title V Permit condition D.2.13a.

55. Condition D.4.7.a of the Title V Permit requires that the facility maintain the minimum temperature of 1600° F at the loadout flare.

56. For 52 days from January 1, 2011 until October 31, 2011, the facility failed to maintain the minimum temperature of 1600° F at the loadout flare as required by Title V Permit condition D.4.7.a.

57. Condition D.4.8.b of the Title V Permit requires that the facility record continuous (one minute average minimum) flare combustion chamber temperature records.

58. From January 1, 2011 until August 11, 2011, the facility failed to record continuous (one minute average minimum) flare combustion chamber temperature records as required by Title V Permit condition D.4.8.b.

59. From March 30, 2011 until February 13, 2012, the facility failed to submit an Initial Notification as required by the Subpart FFFF NESHAP, 40 C.F.R. § 63.2515(b), and the Title V Permit Section E.6.

60. From November 30, 2010 until February 13, 2012, the facility failed to submit a Notification of a Performance Test(s) and conduct applicable performance tests, as required by the Subpart FFFF NESHAP, 40 C.F.R. § 63.2515(c), and the Title V Permit Section E.6.

61. From April 29, 2011 until February 13, 2012, the facility failed to submit a Notification of Compliance Status as required by the Subpart FFFF NESHAP, 40 C.F.R. § 63.2520(d), Table 11, and the Title V Permit Section E.6.

62. From August 31, 2011 until February 13, 2012, the facility failed to submit a Compliance Report as required by the Subpart FFFF NESHAP, 40 C.F.R. § 63.2520(b)(2), § 63.2520(e), Table 11, and the Title V Permit Section E.6.

63. From November 30, 2010 until February 13, 2012, the facility did not comply with the emission limits and work practice standards as required by the Subpart FFFF NESHAP, 40 C.F.R. § 63.2450(a), Tables 1-10, and the Title V Permit Section E.6 for the following emission units:

- a. Continuous process vents emissions;
- b. Batch process vents;
- c. Storage tanks;
- d. Transfer racks;
- e. Equipment leaks;
- f. Waste water streams and liquid streams in open systems; and
- g. Heat exchangers.

64. From November 30, 2010 until February 13, 2012, the facility failed to develop a SSM plan, as required by the Subpart FFFF NESHAP, 40 C.F.R. § 63.6(e)(3), and the Title V Permit Section E.6.

Civil Penalty

65. 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, including Aventine's cooperation, Complainant has determined that an appropriate civil penalty to settle this action is \$119,900.

66. Within 30 days after the effective date of this CAFO, Respondent must pay the \$119,900 civil penalty by Automated Clearinghouse (ACH) also known as REX or remittance express electronic funds transfer, payable to "Treasurer, United States of America," and send to:

US Treasury REX Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking

In the comment area of the electronic funds transfer, state Respondent's name, the docket number of this CAFO and the billing document number.

67. Respondent must send a notice of payment that states Respondent's name, the docket number of this CAFO and the billing document number to EPA at the following addresses when it pays the penalty:

Attn: Compliance Tracker (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

Cynthia A. King (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

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

69. 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.

70. 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

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

72. 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.

73. 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 71, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

74. 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).

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

76. 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.

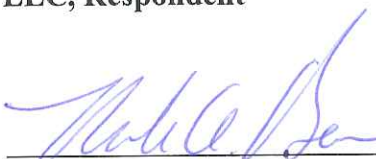
77. Each party agrees to bear its own costs and attorneys’ fees in this action.

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

79. This Consent Agreement and Final Order shall become effective immediately upon filing with the Regional Hearing Clerk and shall terminate when the Respondent has paid the penalty.

Aventine Renewable Energy-Mt. Vernon, LLC, Respondent

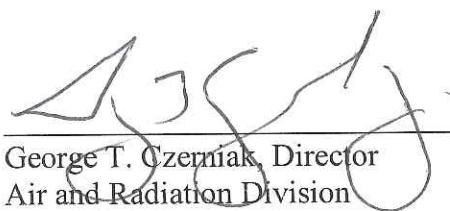
7/28/14
Date



Officer
Aventine Renewable Energy- Mt. Vernon, LLC

United States Environmental Protection Agency, Complainant

8/15/14
Date



George T. Czerniak, Director
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5

Consent Agreement and Final Order


In the Matter of: Aventine Renewable Energy-Mt. Vernon, LLC

Docket No. CAA-05-2014-0045

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.

8-18-2014
Date



Susan Hedman
Regional Administrator
U.S. Environmental Protection Agency
Region 5

Consent Agreement and Final Order
In the Matter of: Aventine Renewable Energy – Mt. Vernon, LLC
Docket No. CAA-05-2014-0045

Certificate of Service

I certify that I filed the original and one copy of the Consent Agreement and Final Order (CAFO), docket number CAA-05-2014-0045 with the Regional Hearing Clerk (E-19J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, Illinois 60604, and that I mailed the second original copy to Respondent by first-class, postage prepaid, certified mail, return receipt requested, by placing it in the custody of the United States Postal Service addressed as follows:

Mark A. Beemer
Aventine Renewable Energy, Inc.
1300 South 2nd Street
Pekin, IL 61554

I certify that I delivered a correct copy of the CAFO by intra-office mail, addressed as follows:

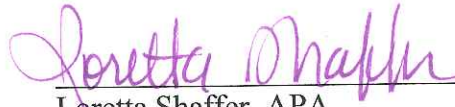
Ann Coyle
Regional Judicial Officer (C-14J)
U.S. Environmental Protection Agency
77 W. Jackson Boulevard
Chicago, Illinois 60604

I also certify that I mailed a correct copy of the CAFO by first-class mail to:

Matthew C. Read
Hodge, Dwyer & Driver
3150 Roland Avenue
Springfield, Illinois 62705

Phil Perry, Chief
Compliance and Enforcement Branch
Office of Air Quality
Indiana Dept. of Environmental Management
Room IOCN 1003
100 North Senate Avenue
Indianapolis, Indiana 46206-6015

On the 19 day of August 2014.


Loretta Shaffer, APA
Planning and Administration Section

CERTIFIED MAIL RECEIPT NUMBER:

7011 1150 0000 2639 3199