



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

SEP 26 2014

REPLY TO THE ATTENTION OF:

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Gerry W. McCoige, Facilities Manager  
Polygon Company  
103 Industrial Park Drive  
Walkerton, Indiana 64574

Dear McCoige:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves the Matter of Polygon Company, docket no. CAA-05-2014-0057. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on SEP 26 2014.

Pursuant to paragraph 28 of the CAFO, Polygon Company must pay the civil penalty within 30 days of SEP 26 2014. Your check must display the case name, the Matter of Polygon Company, and the docket number CAA-05-2014-0057.

Please direct any questions regarding this case to Thomas Williams, Associate Regional Counsel, at (312) 886-0814.

Sincerely,

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

Enclosure

cc: Regional Judicial Officer/C-14J  
Regional Hearing Clerk/E-19J  
Thomas Williams/C-14J  
Phil Perry, IDEM

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5



In the Matter of: ) Docket No. CAA-05-2014-0057  
)  
Polygon Company )  
103 Industrial Park Drive ) Proceeding to Assess a Civil Penalty  
Walkerton, Indiana 46574 )  
) 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 Polygon Company ("Polygon," or "Respondent"), a corporation organized under the laws of, and doing business in, Indiana.

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 or legal 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. On July 16, 2002, EPA approved revised opacity rules set forth in the Indiana Administrative Code at Ind. Admin. Code tit. 326, r. 5-1 to 5-5, as part of the SIP for the State of Indiana. See 67 Fed. Reg. 46589. The federally-enforceable requirements of Ind. Admin. Code tit. 326, r. 5-1 to 5-5 are set forth in the Indiana SIP at 326 IAC 5-1.

10. The Indiana SIP at 326 IAC 5-1 [Ind. Admin. Code tit. 326, r. 5-1-2(2)(A)] requires that opacity shall not exceed an average of forty percent (40%) in any one six-minute averaging period for sources not listed in the Indiana SIP at 326 IAC 5-1 [Ind. Admin. Code tit. 326, r. 5-1-1(c)].

11. On August 18, 1995, EPA approved Indiana's FESOP program as part of the federally-enforceable Indiana SIP. See 60 Fed. Reg. 43008. Indiana's FESOP program is codified at Ind. Admin. Code tit. 326, r. 2-8-1 through 2-8-17, and set forth in the Indiana SIP at 326 IAC 2-8-1 through 2-8-17.

12. Pursuant to the Indiana SIP at 326 IAC 2-8-2, a source required by the Indiana SIP at Ind. Admin. Code tit. 326, r. 2-7-2(a) to have a Part 70 permit (Indiana's federally-approved Title V operating permit program) may apply to IDEM for a FESOP.

13. The Indiana SIP at 326 IAC 2-8-4(1) requires that all FESOPs contain emission limitations and standards assuring compliance with all applicable requirements in effect at the time of the FESOP issuance.

14. Pursuant to the Indiana SIP at 326 IAC 2-8-6(b), EPA may enforce all terms and conditions in a FESOP, including any provisions designed to limit a source's potential to emit.

15. Pursuant to 40 C.F.R. § 52.23, a person who fails to comply with any permit limitation or condition contained within a permit to operate issued under an EPA-approved regulatory program that is incorporated into a SIP violates the SIP, and is subject to an enforcement action under Section 113 of the CAA, 42 U.S.C. § 7413.

16. 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 Clean Air Act violations that occurred after January 12, 2009 through December 6, 2013, and may assess a civil penalty of up to \$37,500 per day of violation up to a total of \$320,000 for Clean Air Act violations that occurred after December 6, 2013 under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

#### **Factual Allegations and Alleged Violations**

17. Polygon owns and operates a resin fiberglass manufacturing facility located at 103 Industrial Park Drive, Walkerton, Indiana (Facility). The Facility includes a plant building located on Tennessee Street in Walkerton (the Tennessee Street plant).

18. Polygon operates five natural gas-fired ovens at the Tennessee Street plant, identified as Gas Ovens #1 through 5, which heat resin-coated fiberglass parts.

19. On April 25, 2008, IDEM issued FESOP No. F141-25464-00062 (Polygon's FESOP) to Polygon for the Facility.

20. Part C.3 of Polygon's FESOP incorporates the opacity limit set forth in the Indiana SIP at 326 IAC 5-1 [Ind. Admin. Code tit. 326, r. 5-1-2(2) (A)], requiring Polygon to limit opacity emissions at its entire source to an average of forty percent (40%) in any one six-minute averaging period. On June 14, 2013, EPA issued to Polygon an information request pursuant to Section 114 of the CAA, 42 U.S.C. § 7414, requiring the company, among other things, to test a representative oven at the Tennessee Street plant.

21. On August 7 and 8, 2013, a certified observer hired by Polygon read opacity at the Facility's Gas Oven #3 in accordance with 40 C.F.R. Part 60, Appendix A, Reference Method 9.

22. On August 7 and 8, 2013, the certified observer hired by Polygon observed opacity levels averaged over a six-minute average exceeding the opacity limit in Part C.3 of Polygon's FESOP.

23. Corresponding with the opacity reading on August 7 and 8, 2013, a filterable particulate emissions test was conducted at the Facility's Gas Oven #3 in accordance with 40 C.F.R. Part 60, Appendix A, Reference Method 5.

24. On August 7 and 8, 2013, the Facility's opacity from its Gas Oven #3 was read over the opacity limit in Part C.3 of Polygon's FESOP.

25. Particulate matter emissions from the stack test corresponding with the opacity readings at the Facility were 0.005 lbs/hr, below the permitted emission limit in Polygon's FESOP.

26. EPA alleges that Polygon's failure to comply with the opacity limit established in Polygon's FESOP violated the Indiana SIP and CAA Section 113.

Civil Penalty

27. 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 factors, such as cooperation and prompt return to compliance, Complainant has determined that an appropriate civil penalty to settle this action is \$25,292.

28. Within 30 days after the effective date of this CAFO, Respondent must pay a \$25,292 civil penalty, by regular U.S. Postal Service mail, sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. EPA  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, Missouri 63197-9000

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

29. 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-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

Thomas Williams (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

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

31. 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.

32. 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**

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

34. 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.

35. 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 31, above,

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

36. Respondent certifies that it is complying fully with the Indiana SIP at 326 IAC 5-1 [Ind. Admin. Code tit. 326, r. 5-1-2(2)(A)], which requires that opacity shall not exceed an average of forty percent (40%) in any one six-minute averaging period for sources not listed in the Indiana SIP at 326 IAC 5-1 [Ind. Admin. Code tit. 326, r. 5-1-1(c)].

37. 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).


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

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

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

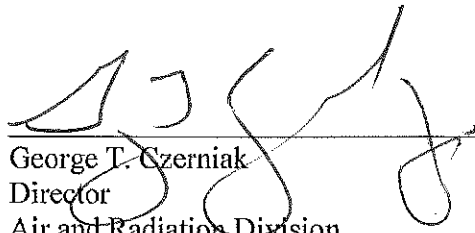
**Polygon Company, Respondent**

9/15/14  
Date

  
Gerry W. McCoige Facilities Manager  
Name, Title  
Polygon Company

**United States Environmental Protection Agency, Complainant**

9/24/14  
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: Polygon Company  
Docket No. CAA-05-2014-0057**

**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.

9-24-2014

Date



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

**Consent Agreement and Final Order  
In the Matter of: Polygon Company  
Docket No. CAA-05-2014-0057**

**Certificate of Service**

I certify that I filed the original and one copy of the Consent Agreement and Final Order (CAFO), docket number ~~CAA-05-2014-0057~~ with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, Illinois 60604, and that I mailed a second original copy 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:

Gerry McCoige  
Facilities Manager  
Polygon Company  
103 Industrial Park Drive  
Walkerton, Indiana 46574

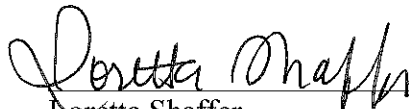
I certify that I mailed a copy of the CAFO by first-class mail, addressed as follows:

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

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

Thomas Williams (C-14J)  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

On the 26 day of September 2014.



Loretta Shaffer  
Administrative Program Assistant  
AECAB, PAS Section

CERTIFIED MAIL RECEIPT NUMBER:

70091680 0000 7676 2441