

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR**

In the Matter of:)
)
England’s Stove Works, Inc.,) Docket No. CAA-HQ-2022-8422
)
Respondent.)

Complainant’s Statements Regarding Notice of Revocation of Certification

Pursuant to the November 19, 2021 Notice of Ex Parte Communication and Opportunity to Respond (“November 19 Notice and Opportunity”), Chief Administrative Law Judge Susan L. Biro (“Presiding Officer”) advised the complainant to file a statement on the second of two questions. Complainant offers the following answer and analysis to the second question listed below.

2. Whether this matter should be stayed pending the outcome of Respondent’s additional testing of its wood heaters and the Agency’s decision whether to issue a new Certificate of Compliance to Respondent.

Complainant respectfully requests that this matter not be stayed. The integrity of the EPA’s residential wood heater certification program rests on its design—before selling wood heaters, manufacturers must demonstrate through valid testing and through the EPA’s certification process that the wood heaters meet emissions standards and are therefore protective of human and environmental health. Here, Respondent continues to sell wood heaters but has not made this prerequisite demonstration. This puts air quality at risk and prevents a level playing field among manufacturers of wood heaters.

Consistent with the regulatory structure, Complainant is not pre-judging whether Respondent’s additional testing will demonstrate compliance. Until such time that Respondent provides valid emissions test results and otherwise meets regulatory prerequisites, Complainant may not grant a Certificate of Compliance and the Respondent should not be selling the identified wood heater models.

Further, it is not at all certain that Respondent will demonstrate compliance. The Respondent began re-testing on November 15, 2021. It is Complainant’s understanding that the wood heater subject to the re-testing malfunctioned and the resultant data does not represent normal operation of the wood heater. The Respondent is currently engaged in efforts to determine the cause of the malfunction. Further, on November 23, 2021 the Complainant was notified the re-test was suspended by the Respondent. Based on the information known to date, it is unclear if a valid certification test could ultimately be conducted on the wood heater and, if so, whether the test results would meet the emission standard.

In the absence of valid test results demonstrating compliance, and in light of the malfunction, continued sales of Respondent’s wood heaters puts air quality at risk and prevents a level playing field with

manufacturers who are currently in compliance with the regulations. Complainant respectfully requests that the Presiding Officer set a hearing date and proceed without staying the proceedings.

Respectfully submitted,

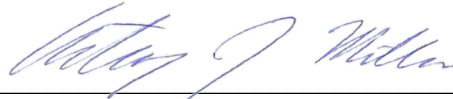
A handwritten signature in blue ink that reads "Anthony J. Miller". The signature is written in a cursive style with a large initial 'A'.

Anthony J. Miller
Acting Director
Monitoring, Assistance, and Media Programs Division
Office of Compliance
Office of Enforcement and Compliance Assurance

In the Matter of England's Stove Works, Inc., Respondent.
Docket No. CAA-HQ-2022-8422

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Complainant's Statements Regarding Notice of Revocation of Certification, dated November 24, 2021, was sent this day to the following parties in the manner indicated below.



Anthony J. Miller
Acting Director
Monitoring, Assistance, and Media Programs Division
Office of Compliance
Office of Enforcement and Compliance Assurance
Email: miller.anthony@epa.gov

Original by Electronic Delivery to:

Mary Angeles, Headquarters Hearing Clerk
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Office of Administrative Law Judges
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Copies by Electronic Mail to:

Chris Terrell
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Email: cterrell@englanderstoves.com
For Respondent

Dated: November 24, 2021
Washington, D.C.