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MAR 14 2002
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

02 MAR 14 P3:16

IN THE MATTER OF:) Docket No. CAA-5-2001-012
)
Pole Zero Corporation) **Proceeding to Assess an**
West Chester, Ohio,) **Administrative Penalty**
) **under Section 113(d) of the**
) **Clean Air Act,**
Respondent.) **42 U.S.C. § 7413(d)**
)

Consent Agreement and Final Order

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

2 On July 2, 2001, U.S. EPA filed the complaint in this action against Respondent Pole Zero Corporation. The complaint alleges that Pole Zero Corporation violated the Ohio State Implementation Plan, approved under Section 110 of the Act, and Section 112 of the Act, 42 U.S.C. § 7412, and the regulations promulgated thereunder setting forth the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Halogenated Solvent Cleaning, 40 C.F.R. Part 63, Subpart T at its facility in West Chester, Ohio.

ORIGINAL!

3 Pole Zero Corporation filed an answer and requested a
hearing under Section 113(d)(2) of the Act, 42 U.S.C. §
7413(d)(2).

Stipulations

4 Pole Zero Corporation admits the jurisdictional
allegations in the complaint and neither admits nor denies the
factual allegations in the complaint.

5 Pole Zero Corporation waives its right to contest the
allegations in the complaint, and waives its right to appeal
under Section 113(d) of the Act, 42 U.S.C. § 7413(d).

6 Pole Zero Corporation certifies that, to the best of its
knowledge, it is complying fully with 40 C.F.R. Part 63, Subpart
T.

7 The parties consent to the terms of this consent
agreement and final order (CAFO).

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

Civil Penalty

9 In consideration of Respondent's agreement to perform a
supplemental environmental project, good faith efforts to comply,
cooperation with the Complainant, and additional evidence
provided to the Complainant, U.S. EPA agrees to mitigate the
proposed penalty of \$159,043 to \$17,500.

10 Pole Zero Corporation must pay the \$17,500 civil penalty by cashiers' or certified checks payable to the "Treasurer, United States of America," **in accordance with the payment schedule in paragraph 13 below.**

11 Pole Zero Corporation must send the checks to:

U.S. Environmental Protection Agency
Region 5
P.O. Box 70753
Chicago, Illinois 60673

12 A transmittal letter, stating Respondent's name, complete address, the case docket number, and the billing document number must accompany the payments. Respondent must write the case docket number and the billing document number on the face of the checks. Respondent must send copies of the checks and transmittal letters to:

Attn: Regional Hearing Clerk, (R-19J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

Attn: Compliance Tracker, (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

T. Leverett Nelson, (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3509

13 Pole Zero shall pay the \$17,500 penalty in four annual installments according to the following schedule:

- a0 \$4,500.00 on or before March 31, 2002;
- b0 \$4,500.00 on or before March 31, 2003;
- c0 \$4,500.00 on or before March 31, 2004; and
- d. \$4,000.00 on or before March 31, 2005.

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

15 If Pole Zero Corporation does not pay timely the civil penalty, or any stipulated penalties due under paragraph 31, below, U.S. EPA may bring an action to collect the entire remaining balance of the penalty with interest, handling charges, nonpayment penalties and the United States' enforcement expenses for the collection action under Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

16 Interest will accrue on any overdue amount from the date payment was due at the rate established under 26 U.S.C. § 6621(a)(2). Pole Zero Corporation will pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. Pole Zero Corporation will pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue according to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). 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.

Supplemental Environmental Project

17 Pole Zero Corporation will perform a supplemental environmental project (SEP) designed to protect the environment and public health by removing the existing batch vapor halogenated solvent cleaner which uses trichloroethylene and replacing it with an aqueous or other environmentally improved cleaning system that is at least as environmentally beneficial as an aqueous system, subject to U.S. EPA approval (hereinafter "new cleaning system").

18 At its West Chester facility, Pole Zero Corporation must complete the SEP as required by the scope of work in Exhibit A.

19 Pole Zero Corporation must spend at least \$75,000 in the performance of this SEP. This expenditure may include internal and third-party costs for investigating, evaluating, and selecting a new cleaning system, purchasing, installing, operating and maintaining the new cleaning system, removing and disposing of the existing cleaner; as well as costs to establish operating procedures, develop process descriptions, provide training, and operate the SEP project in Paragraph 18 above.

20 Pole Zero Corporation must not use any cleaning system that is less environmentally beneficial than the new cleaning system, in lieu of the new cleaning system, for at least four (4) years following its installation.

21 Pole Zero Corporation certifies that it is not required to perform or develop the SEP by any law, regulation, grant, order, or agreement, or as injunctive relief as of the date it signs this CAFO. Pole Zero Corporation further certifies that it has not received, and is not negotiating to receive, credit for the SEP in any other enforcement action.

22 Pole Zero Corporation must maintain copies of the underlying research and data for all reports submitted to U.S. EPA according to this CAFO for a period not to exceed five (5) years from the effective date of this CAFO. Pole Zero Corporation must provide the documentation of any underlying research and data to U.S. EPA within seven days of U.S. EPA's request for the information.

23 Pole Zero Corporation must submit the reports required by the scope of work to U.S. EPA according to the schedule in Exhibit A.

24 Pole Zero Corporation must submit a SEP completion report to U.S. EPA by March 31, 2005. This report must contain the following information:

- a. detailed description of the SEP as completed, including documentation of the purchase and delivery of equipment;
- b. description of any operating problems and the actions taken to correct the problems;
- c. itemized costs of goods and services used to complete the SEP documented by copies of invoices, purchase orders, canceled checks or, for internal

costs, documentation of internal costs incurred including, but not limited to, time cards, market rate sheets and other documentation that specifically identify and itemize the individual costs of the goods and services;

d. certification that Pole Zero Corporation has completed the SEP in compliance with this CAFO; and

e. description of the environmental and public health benefits resulting from the SEP (quantify the benefits and pollution reductions, if feasible).

25 Pole Zero Corporation must submit all notices and reports required by this CAFO by first class mail to:

Attn: Compliance Tracker (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

26 In each report that Pole Zero Corporation submits as provided by this CAFO, it must certify that the report is true and complete by including the following statement signed by one of its officers:

I certify that I am familiar with the information in this document and that, based on my inquiry of those individuals responsible for obtaining the information, the information is true and complete to the best of my knowledge. I know that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

27 Following receipt of the SEP completion report described in paragraph 24 above, U.S. EPA must notify Pole Zero Corporation in writing that:

- a. It has satisfactorily completed the SEP and the SEP report;
- b. There are deficiencies in the SEP as completed or in the SEP report and U.S. EPA will give Pole Zero Corporation 30 days to correct the deficiencies; or
- c. It has not satisfactorily completed the SEP or the SEP report and U.S. EPA will seek stipulated penalties under paragraph 29.

28 If U.S. EPA exercises paragraph 27, option b. above, Pole Zero Corporation may object in writing to the deficiency notice within 10 days of receiving the notice. The parties will have 30 days from U.S. EPA's receipt of Pole Zero Corporation's objection to reach an agreement. If the parties cannot reach an agreement, U.S. EPA will give Pole Zero Corporation a written decision on its objection. Pole Zero Corporation will comply with any requirements that U.S. EPA imposes in its decision. If Pole Zero Corporation does not complete the SEP as required by U.S. EPA's decision, Pole Zero Corporation will pay stipulated penalties to the United States under paragraph 29 below.

29 If Pole Zero Corporation violates any requirement of this CAFO relating to the SEP, Pole Zero Corporation must pay stipulated penalties to the United States as follows:

- a. Except as provided in subparagraph b, below, if Pole Zero Corporation did not complete the SEP satisfactorily according to this CAFO, Pole Zero Corporation must pay a stipulated penalty of \$75,000.
- b. If Pole Zero Corporation did not complete the SEP satisfactorily, but U.S. EPA determines that Pole Zero Corporation: (i) made good faith and timely efforts to complete the SEP; and (ii) certified, with supporting

documents, that it spent at least 90 percent of the required amount on the SEP, Pole Zero Corporation will not be liable for any stipulated penalty.

c. If Pole Zero Corporation satisfactorily completed the SEP, but spent less than 90 percent of the required amount on the SEP, Pole Zero Corporation must pay a stipulated penalty of \$10,000.

d. If Pole Zero Corporation failed to submit timely the SEP completion report required by paragraph 26 above, Pole Zero Corporation must pay a stipulated penalty of \$100 for each day after the report was due until it submits the report.

e. If Pole Zero Corporation failed to submit timely any other report required by paragraph 25 above, Pole Zero Corporation must pay a stipulated penalty of \$100 for each day after the report was due until it submits the report.

30 U.S. EPA's determinations of whether Pole Zero Corporation satisfactorily completed the SEP and whether it made good faith, timely efforts to complete the SEP will bind Pole Zero Corporation.

31 Pole Zero Corporation must pay any stipulated penalties within 15 days of receiving U.S. EPA's written demand for the penalties. Pole Zero Corporation will use the method of payment specified in paragraphs 10 through 12, above; and will pay interest, handling charges, and nonpayment penalties on any overdue amounts.

32 Any public statement that Pole Zero Corporation makes referring to the SEP must include the following language, "Pole Zero Corporation undertook this project under the settlement of the United States Environmental Protection Agency's enforcement

action against Pole Zero Corporation for alleged violations of the Ohio State Implementation Plan and the National Emission Standards for Hazardous Air Pollutants, 40 C.F.R. Part 63."

33 If an event occurs which causes or may cause a delay in completing the SEP as required by this CAFO:

a. Pole Zero Corporation must notify U.S. EPA in writing within 10 days after learning of an event which caused or may cause a delay in completing the SEP. The notice must describe the anticipated length of the delay, its cause(s), Pole Zero Corporation's past and proposed actions to prevent or minimize the delay, and a schedule to carry out those actions. Pole Zero Corporation must take all reasonable actions to avoid or minimize any delay. If Pole Zero Corporation fails to notify U.S. EPA according to this paragraph, Pole Zero Corporation will not receive an extension of time to complete the SEP.

b. If the parties agree that circumstances beyond the control of Pole Zero Corporation caused or may cause a delay in completing the SEP, the parties will stipulate to an extension of time no longer than the period of delay.

c. If U.S. EPA does not agree that circumstances beyond the control of Pole Zero Corporation caused or may cause a delay in completing the SEP, U.S. EPA will notify Pole Zero Corporation in writing of its decision and any delays in completing the SEP will not be excused.

d. Pole Zero Corporation has the burden of proving that circumstances beyond its control caused or may cause a delay in completing the SEP. Increased costs for completing the SEP will not be a basis for an extension of time under subparagraph b, above. Delay in achieving an interim step will not necessarily justify or excuse delay in achieving subsequent steps.

General Provisions

34 This CAFO settles U.S. EPA's claims for civil penalties for the violations alleged in the complaint.

35 Nothing in this CAFO restricts U.S. EPA's authority to seek Pole Zero Corporation's compliance with the Act and other applicable laws and regulations.

36 This CAFO does not affect Pole Zero Corporation's responsibility to comply with the Act and other applicable federal, state and local laws, and regulations.

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

38 The terms of this CAFO bind Pole Zero Corporation, and its successors, and assigns.

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

40 Each party agrees to bear its own costs and fees in this action.

41 This CAFO constitutes the entire agreement between the parties.

**U.S. Environmental Protection
Agency, Complainant**

Date: 3-6-02

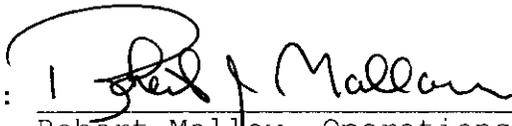
By: 

Bharat Mathur, Director
Air and Radiation Division
U.S. Environmental Protection
Agency, Region 5 (A-18J)

CONSENT AGREEMENT AND FINAL ORDER
Pole Zero Corporation
Docket No. CAA-5-2001-012

Pole Zero Corporation, Respondent

Date: FEB 22, 2002

By: 
Robert Mallow, Operations Manager
Pole Zero Corporation

CONSENT AGREEMENT AND FINAL ORDER

Pole Zero Corporation

Docket No. CAA-5-2001-012

Exhibit A

Specifications for replacement of existing halogenated solvent cleaner with an aqueous or other environmentally improved cleaning system that is at least as environmentally beneficial as an aqueous system (hereinafter "new cleaning system").

- A. As a Supplemental Environmental Project (SEP) to be incorporated as part of the resolution of matters identified in Administrative Complaint Number CAA-5-2001-012, filed on July 2, 2001, Pole Zero Corporation will replace the existing batch vapor halogenated solvent cleaner with a new cleaning system at its facility located in West Chester, Ohio.
- B. The following schedule shall apply to this SEP project:
1. By March 31, 2004, Pole Zero Corporation shall have investigated, evaluated, and received bids for the installation of a new cleaning system;
 2. By July 31, 2004, Pole Zero Corporation shall have selected a bid;
 3. By September 30, 2004, Pole Zero Corporation shall have submitted a purchase order for all major equipment components necessary for the construction, installation and maintenance of the new cleaning system;
 4. By January 31, 2005, Pole Zero Corporation shall have all major equipment components delivered and available for installation and have completed removal of the existing halogenated solvent cleaner and have installed the new cleaning system; and
 5. By March 31, 2005, Pole Zero Corporation shall have started-up the new cleaning system and begun operation of the system.
- C. Pole Zero Corporation shall submit semi-annual reports to U.S. EPA describing the status of Pole Zero Corporation's compliance with the schedule in paragraph B above, beginning April 30, 2004.

D. In connection with the new cleaning system SEP, Pole Zero Corporation shall apply for all necessary permits to install and permits to operate the new cleaning system, as applicable.

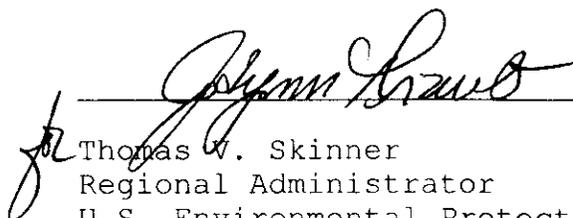
CONSENT AGREEMENT AND FINAL ORDER
Pole Zero Corporation
Docket No. CAA-5-2001-012

Final Order

It is ordered as agreed to by the parties and as stated in the consent agreement, effective immediately upon filing of this CAFO with the Regional Hearing Clerk.

Date:

March 13, 2007



Thomas W. Skinner
Regional Administrator
U.S. Environmental Protection
Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

CERTIFICATE OF SERVICE

I, Loretta Shaffer, certify that I hand delivered the original of the Consent Agreement and Final Order, docket number CAA-5-2001-012 to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that I mailed correct copies by first-class, postage prepaid, certified mail, return receipt requested, to Pole Zero Corporation and Pole Zero Corporation's Counsel by placing them in the custody of the United States Postal Service addressed as follows:

Robert Mallow, Operations Manager
Pole Zero Corporation
5530 Union Centre Drive
West Chester, Ohio 45069

on the 14th day of March, 2002.

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RECEIVED

Loretta Shaffer
Loretta Shaffer
AECAS (MN/OH)

CERTIFIED MAIL RECEIPT NUMBER: 7099340000095865379