



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
GREAT LAKES NATIONAL PROGRAM OFFICE
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAR 30 2012

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Michael J. Hey
District Manager
Countryside Landfill, Inc
31725 North Route 83
Grayslake, Illinois 60030

Dear Mr. Hey:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves Countryside Landfill, Inc., CAA Docket No. CAA-05-2012-0015. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on 3/30/2012.

Pursuant to the CAFO, Countryside must pay the civil penalty within 30 days of the date the CAFO was filed, 4/30/2012. Your electronic funds transfer must display the docket number, CAA-05-2012-0015, and the billing document number, 2751203A017.

Please direct any questions regarding this case to Andre Daugavietis, Associate Regional Counsel, at (312) 886-6663.

Sincerely yours,

Nathan A. Frank, P.E.
Chief

Air Enforcement and Compliance Assurance Section (IL/IN)

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:)	Docket No. CAA-05-2012-0015
)	
Countryside Landfill, Inc.)	Proceeding to Assess a Civil Penalty
Lake County, Illinois)	Under Section 113(d) of the Clean Air Act
)	42 U.S.C. § 7413(d)
Respondent.)	
_____)	

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Consent Agreement and Final Order

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the Act), 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, Region 5.

3. Respondent is Countryside Landfill, Inc. (Countryside), a corporation doing business in Illinois.

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 entry of this CAFO and the assessment of the specified civil penalty, and agrees to comply with the terms of the 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 and legal conclusions in the 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 113(a) of the CAA, 42 U.S.C. § 7413(a), authorizes the Administrator of the EPA (Administrator) to initiate an enforcement action whenever, among other things, the Administrator finds that any person has violated or is in violation of a requirement or prohibition of an applicable implementation plan or permit.

10. Section 111 of the CAA, 42 U.S.C. § 7411, requires the EPA to implement the New Source Performance Standards (NSPS) program. The NSPS are nationally uniform emission standards for new or modified stationary sources falling within industrial categories that significantly contribute to air pollution.

11. Each state must submit to the Administrator of the EPA a plan for attaining and maintaining the National Ambient Air Quality Standards under Section 110 of the Act, 42 U.S.C. § 7410.

12. On May 31, 1972, the EPA approved Illinois Pollution Control Board Rule 102, (35 Illinois Administrative Code § 201.141), as part of the federally enforceable SIP for the State of Illinois. 37 Fed. Reg. 10842.

13. Title V of the CAA, 42 U.S.C § 7661, established an operating permit program for major sources of air pollution. Section 502(d) of the Act, 42 U.S.C. § 7661a(d), provides that each state must submit to the Administrator a permit program meeting the requirements of Title V.

14. Pursuant to Section 502(b) of the Act, 42 U.S.C. § 7661a(b), the Administrator promulgated regulations, subsequently codified at 40 C.F.R. Part 70, providing for the establishment of Title V permitting programs.

15. Section 502(a) of the CAA, 42 U.S.C. § 7661a(a) and 40 C.F.R. § 70.7(b) provide that, after the effective date of any permit program approved or promulgated under Title V of the CAA, no source subject to Title V may operate except in compliance with a Title V permit.

16. The Illinois Environmental Protection Agency (IEPA) issued a Title V Permit (No. 97040110) to Countryside on April 28, 1997.

17. IEPA issued a construction permit (No. 98100039) to Countryside on November 15, 2000. This permit covers the operation of a replacement enclosed flare for the control of landfill gas emissions.

18. Condition 7.1.5(a)(iii) of Countryside's Title V Permit requires that all collected landfill gas be routed to a control system that complies with the operation and design requirements of 40 C.F.R. § 60.752(b)(2)(iii).

19. Condition 7.1.5(a)(iv) of Countryside's Title V Permit requires that operation of the collection and control device installed to comply with 40 C.F.R. § 60.752(b)(2)(iv). This requires that the control device be operated in accordance with the provisions of 40 C.F.R., §§ 60.753, 60.755, and 60.756.

20. Condition 7.1.7(a)(vi) of Countryside's Title V Permit requires that the control or

treatment system be operated at all times when the collected gas is routed to the system, in compliance with 40 C.F.R. § 60.753(f).

21. Condition 7.1.3(b) of Countryside's Title V Permit requires that Countryside maintain and operate any affected facility, including associated air pollution control equipment, in a manner consistent with good air pollution control practice for minimizing emissions, in compliance with 40 C.F.R. § 60.11(d).

22. Condition 7.1.6(a)(iii) of Countryside's Title V Permit, and Construction Permit No. 98100039, require that sulfur dioxide emissions from the facility's flare shall not exceed 6.28 pounds per hour, and 27.49 tons per year.

23. The Illinois SIP at 35 IAC § 201.141 provides that no person shall cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as, either alone or in combination with contaminants from other sources, to cause or tend to cause air pollution in Illinois.

24. The Illinois SIP at 35 IAC § 201.102 defines air pollution as "the presence in the atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property."

25. The Administrator may assess a civil penalty of up to \$37,500 per day of violation up to a total of \$295,000 for violations that occurred after January 12, 2009 under Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

26. 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.

27. 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

28. Countryside owns and operates a municipal solid waste landfill in unincorporated Lake County, Illinois.

29. On or about February 8, 2010, the EPA issued to Countryside a Notice and Finding of Violation concerning the matters addressed below.

30. Countryside's landfill produces landfill gas containing methane, carbon dioxide, hydrogen sulfide, non-methane organic compounds, and other chemicals.

31. Countryside sends its landfill gas to a neighboring gas-to-energy facility and on-site flares to control emissions. The landfill generates landfill gas in excess of the capacity of the gas-to-energy facility. The remainder of the gas is combusted in the flare. Prior to September 2008, not enough landfill gas was generated to operate both the gas-to-energy facility and the flare concurrently. Because of this, the flare operated intermittently.

32. During the 5-year period between July 2004 and July 2009, Countryside reported to the EPA sixteen occasions, totaling 29.9 hours, when neither the gas-to-energy facility or landfill flare were operating and controlling the emissions from the landfill. Eleven of these occurrences were due to power/utility outages.

33. Countryside reported to the EPA between July 2004 and July 2009, there have been approximately one hundred occasions ranging in duration from 1 hour to 1 month when the

back-up landfill flare was not operational, though the gas-to-energy facility was operating, except for the sixteen occasions described in Paragraph 32, above.

34. Countryside reported to the EPA that since 2004 there have been twenty three occasions when the landfill flare was operated at a temperature lower than the temperature used to demonstrate compliance during performance testing.

35. Countryside reported to the EPA sulfur dioxide emissions from the landfill flare in excess of its permit limit of 6.28 pounds per hour and 27.49 tons per year. On March 17, 2009, after Countryside became aware that its sulfur dioxide emissions began to exceed its permitted limits, it filed an application with the IEPA to modify Construction Permit No. 98100039 by requesting an increase in sulfur dioxide limits.

36. 40 C.F.R. 60.753(a)(1) and Condition No. 7.1.7(a)(i) (A) of Countryside's Title V Permit state that "each owner or operator of an MSW landfill with a gas collection and control system ... shall operate the collection system such that gas is collected from each area, cell, or group of cells in the MSW landfill in which solid waste has been in place for five years or more if active." The drywall fines or processed construction and demolition debris that Countryside accepted between February and March 2008 is less than five years old, and therefore not yet subject to NSPS collection and control requirements.

37. Between November 2008 and the December 2010 a number of odor complaints were reported to the local government, IEPA, and the EPA from people in the residential area near the Countryside landfill.

38. The EPA alleges that by failing to properly operate equipment used to control the landfill gas, Countryside was in violation of 40 C.F.R. § 60.752(b)(2)(iii), 40 C.F.R. § 60.753(f), and Title V Permit Conditions 7.1.5(a)(iii) and 7.1.7(a)(vi).

39. The EPA alleges that by failing to properly operate the equipment used to control the landfill gas, Countryside was in violation of 40 C.F.R. § 60.752(b)(2)(iv), and Title V Permit Condition 7.1.5(a)(iv).

40. The EPA alleges that because of the manner Countryside operated the landfill's control devices, and the manner it handled drywall fines or processed construction and demolition debris, Countryside failed to maintain and operate an affected facility, including associated air pollution control equipment, in a manner consistent with good air pollution control practice for minimizing emissions in violation of 40 C.F.R. § 60.11(d) and Title V Permit Condition 7.1.3(b).

41. The EPA alleges that by emitting sulfur dioxide in excess of 6.28 pounds per hour and 27.49 tons per year from its landfill flare, Countryside was in violation of Construction Permit No. 98100039, and Title V Permit Condition 7.1.6(a)(iii).

42. The EPA alleges that by causing numerous odor problems, Countryside was in violation of the SIP at 35 IAC § 201.102.

43. The EPA alleges that Countryside's failure to operate according to its Title V Operating Permit, its Construction Permit, and the SIP constitute violations of section 502 of the CAA and 40 C.F.R. § 70.7(b).

Compliance

44. Respondent represents and certifies that it is in compliance with the requirements that formed the basis of the allegations of this CAFO, above. In order to achieve and maintain compliance, Respondent has agreed to the terms of an administrative compliance order under Section 113 of the Act, EPA-5-11-113(a) IL-04, dated July 22, 2011.

Procedural Matters

45. The EPA issued Respondent a Notice of Violation and Finding of Violation on February 8, 2010, giving notice of the violations alleged above, and offering the Respondent an opportunity to confer with the EPA.

46. The EPA and Respondent have held numerous discussions regarding the alleged violations and the resolution of this matter.

Civil Penalty

47. Based on analysis of the factors specified in Section 113(e) of the Act, 42 U.S.C. § 7413(e), the facts of this case, including that Countryside has reported these violations, has promptly and co-operatively agreed to the terms of the compliance order, and has co-operatively entered into this settlement, and applying the appropriate inflation rate(s), Complainant has determined that an appropriate civil penalty to settle this action is \$87,557.

48. Within 30 days after the effective date of this CAFO, Respondent must pay a civil penalty in the amount of \$87,557 by electronic funds transfer, payable to the "Treasurer, United States of America," and sent to:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 68010727
33 Liberty Street
New York, New York 10045

Field Tag 4200 of the Fedwire message should read:
"D68010727 Environmental Protection Agency"

In the comment or description field of the electronic funds transfer, state Countryside Landfill, Inc., the docket number of this CAFO, and the billing document number.

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

50. If Respondent does not timely pay the civil penalty, the EPA may bring an action to collect any unpaid portion 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.

51. Pursuant to 31 C.F.R. § 901.9, 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. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must 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.

General Provisions

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

53. The effect of the settlement described in this CAFO is conditioned upon the accuracy of the Respondent's representations to the EPA, as set forth in this CAFO.

54. The CAFO does not affect the right of the EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

55. This CAFO does not affect Respondent's responsibility to comply with the Act and other applicable federal, state, and local laws. Except as provided in paragraph 53 above,

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

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

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

58. 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.

59. Each party agrees to bear its own cost and attorney's fees in this action.

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

Countryside Landfill, Inc., Respondent

3/6/2012

Date

Michael J. Hey

Michael J. Hey

District Manager

Countryside Landfill, Inc.

United States Environmental Protection Agency, Complainant

03/27/12

Date

Mary P. Tyson for CC
Cheryl L. Newton

Acting

Director

Air and Radiation Division

U.S. Environmental Protection Agency

Region 5

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MAR 30 2012

CONSENT AGREEMENT AND FINAL ORDER

In the Matter of:

Countryside Landfill, Inc.

Docket No. CAA-05-2012-0015

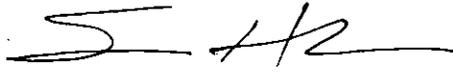
REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

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.

3-28-12

Date



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

In the Matter of: Countryside Landfill, Inc.
Consent Agreement and Final Order
Docket No. CAA-05-2012-0015

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MAR 30 2012

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U.S. ENVIRONMENTAL
PROTECTION AGENCY

Certificate of Service

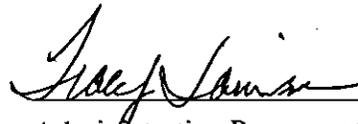
I certify that I hand-delivered two originals of the Consent Agreement and Final Order (CAFO), docket number CAA-05-2012-0015, to the Regional Hearing Clerk (E-19J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, Illinois 60604, and that I mailed a correct copy by first-class, postage prepaid, certified mail, return receipt requested, by placing them in the custody of the United States Postal Service addressed as follows:

Michael J. Hey
District Manager
Countryside Landfill, Inc
31725 North Route 83
Grayslake, Illinois 60030

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

Ray Pilapil, Manager
Bureau of Air
Compliance and Enforcement Section
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, Illinois 62702

On the 30 day of MARCH 2012.



Administrative Program Assistant
Planning and Administration Section

CERTIFIED MAIL RECEIPT NUMBER:

7009 1680 0000 7672 8652