

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

FILED

Sep 18, 2024

3:56 pm

U.S. EPA REGION 5
HEARING CLERK

In the Matter of:)	
)	Docket No.CAA-05-2024-0004
Cutting Edge Enterprises, Inc.)	
Forest Lake, Minnesota,)	Proceeding to Assess a Civil Penalty
)	Under Section 113(d) of the Clean Air Act,
Respondent.)	42 U.S.C. § 7413(d)
_____)	

Consent Agreement and Final Order

1. On April 30, 2024, Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency (EPA), Region 5, brought this administrative action seeking a civil penalty under Section 113(d) of the Clean Air Act (the CAA), 42 U.S.C. §7413(d), against Cutting Edge Enterprises, Inc. (Respondent).

2. The Complaint alleges that Respondent violated Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B).

3. Respondent filed an Answer and requested a hearing under Section 113(d)(2) of the CAA, 42 U.S.C. § 7413(d)(2).

Stipulations

4. Respondent admits the jurisdictional allegations in the Complaint and neither admits nor denies the factual allegations in the Complaint, other than those it admitted in its Answer.

5. Respondent waives any right to contest the allegations in the Complaint and its right to appeal this Consent Agreement and Final Order (CAFO).

6. Respondent certifies that it is complying fully with Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B).

7. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this 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 an analysis of the factors specified in Section 113(e) of the CAA, 42 U.S.C. § 7413(e) and the facts of this case, Respondent agrees to pay a civil penalty in the amount of SIXTY-NINE THOUSAND ONE HUNDRED AND TWENTY (\$69,120) dollars.

10. Penalty Payment. Respondent agrees to:

a. Pay the civil penalty in the amount specified in Paragraph 9, above, within 30 days after the effective date of this CAFO.

b. Pay the civil penalty using any method provided in the table below.

Payment Method	Payment Instructions
<p>Automated Clearinghouse (ACH) payments made through the US Treasury</p>	<p>US Treasury REX/Cashlink ACH Receiver ABA: 051036706 Account Number: 310006, Environmental Protection Agency CTX Format Transaction Code 22 – checking</p> <p>In the comment area of the electronic funds transfer, state Respondent’s name and the CAFO docket number.</p>
<p>Wire transfers made through Fedwire</p>	<p>Federal Reserve Bank of New York ABA: 021030004 Account Number: 68010727 SWIFT address: FRNYUS33 33 Liberty Street New York, NY 10045 Beneficiary: US Environmental Protection Agency</p> <p>In the comment area of the electronic funds transfer, state Respondent’s name and the docket number of this CAFO.</p>
<p>Payments made through Pay.gov</p> <p>Payers can use their credit or debit cards (Visa, MasterCard, American Express & Discover) as well as checking account information to make payments.</p>	<ul style="list-style-type: none"> • Go to Pay.gov and enter “SFO 1.1” in the form search box on the top left side of the screen. • Open the form and follow the on-screen instructions. • Select your type of payment from the "Type of Payment" drop down menu. • Based on your selection, the corresponding line will open and no longer be shaded gray. Enter the CAFO docket number into the field
<p>Cashier’s or certified check payable to “Treasurer, United States of America.”</p> <p>Please notate the CAFO docket number on the check</p>	<p>For standard delivery: U.S. Environmental Protection Agency Fines and Penalties Cincinnati Finance Center P.O. Box 979078 St. Louis, Missouri 63197-9000</p> <p>For signed receipt confirmation (FedEx, UPS, Certified Mail, etc): U.S. Environmental Protection Agency Government Lockbox 979078 3180 Rider Trail S. Earth City, Missouri 63045</p>

11. Within 24 hours of the payment of the civil penalty, 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:

Air Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency, Region 5
R5airenforcement@epa.gov

Andrew Futerman
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
Futerman.Andrew@epa.gov

Louise Gross
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
Gross.Louise@epa.gov

Regional Hearing Clerk (E-19J)
U.S. Environmental Protection Agency, Region 5
r5hearingclerk@epa.gov

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

13. 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.

14. 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 attorney's 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).

15. In order to provide the EPA with information it needs to fulfill its IRS reporting requirements under 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, Respondent agrees to complete an IRS Form W-9 (“Request for Taxpayer Identification Number and Certification,” available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>) and email it to the EPA’s Cincinnati Finance Center at wise.milton@epa.gov within 30 calendar days of the effective date of this CAFO. EPA recommends encrypting IRS Form W-9 email correspondence. If Respondent does not have a taxpayer identification number (TIN) and certifies in its Form W-9 that it has applied for and is waiting for a TIN, then, within five days of receipt of a TIN, Respondent will email its TIN to the EPA’s Cincinnati Finance Center at the address above.

General Provisions

16. The parties have, and continue to, consent to service of this CAFO by e-mail at the following e-mail addresses: Futerman.andrew@epa.gov; gross.louise@epa.gov (for Complainant), and lremakel@fredlaw.com; whefner@fredlaw.com; DDriscoll@fredlaw.com; (for Respondent). The parties waive their right to service by the methods specified in 40 C.F.R. § 22.6. Respondent understands that the CAFO will become publicly available upon filing.

17. This CAFO resolves only Respondent’s liability for federal civil penalties for the violations alleged in the Complaint.

18. This 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.

19. 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 17, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

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

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

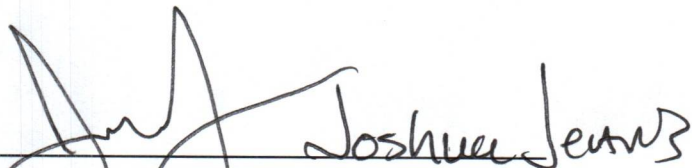
22. Each person signing this CAFO certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

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

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

Cutting Edge Enterprises, Inc., Respondent

9-16-2024
Date



Joshua Jeans
Cutting Edge Enterprises, Inc.

United States Environmental Protection Agency, Complainant

Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 5

**Consent Agreement and Final Order
In the Matter of: Cutting Edge Enterprises, Inc.
Docket No. CAA-05-2024-0004**

Final Order

This Consent Agreement and Final Order, as agreed to by 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.

Date

Ann L. Coyle
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 5