

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

In the Matter of:

Grimmel Industries, Inc.
Topsham, Maine,

Respondent,

In a proceeding under Section 113(d)
of the Clean Air Act, 42 U.S.C. § 7413(d)

**CONSENT AGREEMENT AND
FINAL ORDER****CAA-01-2024-0048****A. PRELIMINARY STATEMENT**

1. This is an administrative penalty assessment proceeding pursuant to Section 113(d) of the Clean Air Act (the "CAA" or "Act"), 42 U.S.C. § 7413(d), and Sections 22.13 and 22.18 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules"), codified at 40 C.F.R. Part 22.

2. On behalf of the United States Environmental Protection Agency ("EPA" or "Complainant"), the Director of the Enforcement and Compliance Assurance Division ("ECAD") for EPA Region 1 is delegated the authority to settle civil administrative penalty proceedings under Section 113(d) of the Act. Specifically, pursuant to EPA Delegation of Authority 7-6-A and EPA Region 1 Delegation of Authority 7-6-A, the Administrator has delegated to the Director of ECAD, through the Regional Administrator of EPA Region 1, the authority to (a) make findings of violations, (b) issue CAA Section 113(d) administrative penalty complaints, and (c) agree to settlements and sign consent agreements memorializing those settlements, for CAA violations that occur in the jurisdiction of EPA Region 1.

3. Section 113(a) of the CAA authorizes the EPA Administrator to issue an administrative penalty order in accordance with Section 113(d) for violations associated with an applicable implementation plan after providing the requisite 30-day notice to the violator and to the State in which the implementation plan applies.
4. Section 113(d) of the CAA authorizes the EPA Administrator to issue an order assessing civil administrative penalties against any person that has violated or is violating any requirement or prohibition of subchapters I, III, IV-A, V, or VI of the Act, or any requirement or prohibition of any rule, order, waiver, permit, or plan promulgated pursuant to any of those subchapters, including but not limited to any regulation promulgated pursuant to Sections 111, 112, and 114 of the Act, 42 U.S.C. §§ 7411, 7412, and 7414.
5. Respondent is Grimmel Industries, Inc. (“Respondent” or “Grimmel”), a corporation doing business in Topsham, Maine.
6. Respondent is a “person” as defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e).
7. Pursuant to Section 113(d), the Administrator and the Attorney General, through their respective delegates, have jointly determined that this matter is appropriate for an administrative penalty proceeding. Specifically, on December 13, 2023, the United States Department of Justice (“DOJ”) granted EPA’s request that a joint determination for a waiver of the CAA Section 113(d) 12-month time limitation on EPA’s authority to initiate an administrative penalty action is appropriate in this matter.
8. EPA alleges that Grimmel violated the Maine State Implementation Plan (“Maine SIP”), along with the CAA and its implementing regulations promulgated under the CAA. The violations occurred at the scrap metal shredding facility, formerly located at 80 Pejepscot Village and currently at 177 Recycle Drive in Sagadahoc County in Topsham, Maine (the “Facility”). EPA alleges that:

- a. Respondent's failure to obtain a license addressing its shredder, as a stationary source that emits volatile organic compounds ("VOC") from its shredder, is a violation. *See* Maine SIP, Chapter 115 § II.A, II.C.
- b. Respondent's failure to comply with reasonably available control technology ("RACT") requirements, as a Facility that has the potential to emit in excess of 40 tons per year of VOCs, is a violation. *See* Maine SIP, Chapter 134 § I.A.1.
- c. Respondent's failure to obtain and maintain the required permits, as a "major source" Facility, with the potential to emit in excess of 50 tons per year of VOCs in the ozone transport region ("OTR"), is a violation. *See* Maine SIP, Chapter 100, 112(C)(2)(b); 42 U.S.C. § 7661a(a), 40 C.F.R. § 70.7(b); 42 U.S.C. § 7661b(c), and 40 C.F.R. § 70.5.

The violations alleged by EPA are set forth in detail in Section E of this Consent Agreement, entitled "Conclusions of Law."

B. JURISDICTION

9. This Consent Agreement is entered into pursuant to Section 113(d) of the Act, as amended, 42 U.S.C. § 7413(d), and the Consolidated Rules, 40 C.F.R. Part 22.

10. The Regional Judicial Officer is authorized to ratify this Consent Agreement, which memorializes a settlement between Complainant and Respondent. 40 C.F.R. § 22.18(b)(3).

11. The issuance of this Consent Agreement and attached Final Order simultaneously commences and concludes this proceeding. 40 C.F.R. §§ 22.13(b) and 22.18(b).

C. GOVERNING LAW

State of Maine SIP Requirements (VOC RACT)

12. 40 C.F.R. § 51.100(s), which applies to SIPs, defines VOC as, in relevant part, "any

compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions.”

13. The Maine SIP includes various federally-approved portions of the Maine Air Pollution Control Regulations, Chapters 100 et al. (“ME APC Regulations”), which were promulgated by the Maine Department of Environmental Protection (“ME DEP”). The federally-enforceable versions of the ME APC Regulations contained in the Maine SIP, which can be found on EPA’s website at <https://www.epa.gov/sips-me/epa-approved-regulations-maine-sip>, are cited herein.

Chapter 115

14. Under the Maine SIP at ME APC Regulation Chapter 115 – Emission License Regulations, no person may emit any air contaminant from any source without an air emission license unless the source is exempt under Section II.C. *See* Maine SIP, Chapter 115 § II.A.

15. Under the Maine SIP at ME APC Regulation Chapter 115 – Emission License Regulations, “...once a source requires an air emission license, all emission units at the source must be included.” *See* Maine SIP, Chapter 115 § II.C.

16. An “emissions unit” means any equipment or pollutant-emitting activity of a source which emits or would have the potential to emit a regulated pollutant or hazardous air pollutant.” *See* Maine SIP, Chapter 100 § 42.

Chapter 134

17. Under the Maine SIP at ME APC Regulation Chapter 134 – Reasonably Available Control Technology for Facilities that Emit VOCs, the owner or operator of any facility that emits or has the potential to emit forty (40) tons or more per calendar year of VOCs must

comply with RACT requirements. *See* Maine SIP, Chapter 134 § 1.A.1.

18. The applicable effective date, for affected facilities subject to Chapter 134 § 1.A.1, is October 17, 1993. *See* Maine SIP, Chapter 134 § 1B.

Clean Air Act Title V Operating Permit

19. Title V of the Act (“Title V”) consists of CAA Sections 501 to 507, 42 U.S.C. §§ 7661-7661f.

20. In general, Title V requires each “major source” to obtain an operating permit setting forth all the air pollution requirements that apply to that source; Title V also provides for the creation of state and federal programs to issue such permits.

21. A “major source”, as defined in Chapter 100, 112(C)(2)(b) of the Maine SIP, includes any source which emits or has the potential to emit fifty tons per year or more of VOCs in the OTR. *See also* Section 501(2)(B) of the Act, 42 U.S.C. § 7661(2)(B), and 40 C.F.R §§ 70.2 and 70.3.

22. Section 502(a) of the Act, 42 U.S.C. § 7661a(a), and 40 C.F.R. § 70.7(b), prohibit a major source from operating except in accordance with a Title V operating permit after the effective date of any permit program approved or promulgated under Title V of the Act.

23. Section 502(b) of the CAA, 42 U.S.C. § 7661a(b), requires EPA to promulgate regulations establishing the minimum elements of a Title V operating permit program; it also sets forth the procedures by which EPA would approve, oversee, and withdraw approval of state operating permit programs.

24. Section 502(d) of the CAA, 42 U.S.C. § 7661a(d), requires each state to develop and submit to EPA a permit program meeting the requirements of Title V.

25. Section 502(e) of the CAA, 42 U.S.C. § 7661a(e), authorizes EPA to retain the authority to enforce Title V operating permits issued by a state.

26. On July 21, 1992, pursuant to CAA Section 502(b), EPA promulgated 40 C.F.R. Part 70 ("Part 70"), which governs state operating permit programs. *See* 57 Fed. Reg. 32295 (July 21, 1992).

27. Section 502(d) of the Act, 42 U.S.C. § 7661a(d), and 40 C.F.R. § 70.4 require each state to submit a permitting program, developed in accordance with Part 70, to EPA for approval. States are authorized to administer their own EPA-approved Title V operating permit programs.

28. Section 503(c) of the Act, 42 U.S.C. § 7661b(c), requires any person required to have a permit to submit a permit application within 12 months after the source becomes subject to the permit program.

29. On March 24, 1997, EPA granted interim approval of the Maine Title V Program, as set forth at Chapter 140 of the ME APC Regulations. *See* 40 C.F.R. Part 70.

D. FINDINGS OF FACT

EPA alleges as follows:

30. Grimmel owns and operates the scrap metal shredding facility formerly located at 80 Pejepscot Village and currently located at 177 Recycle Drive in Sagadahoc County in Topsham, Maine.

31. Topsham, Maine is located in Sagadahoc County, which is located in the Ozone Transport Region. *See* 40 C.F.R. § 81.457(a), Table 1.

32. Grimmel operates a 6,000 horsepower shredder, installed in 2010, that processes automobiles and scrap metals and in doing so, emits VOCs.

33. On October 25, 2021, EPA issued a Clean Air Act Reporting Requirement to Grimmel.

34. On December 13, 2021, Grimmel submitted a response to the Reporting Requirement.

35. On May 18, 2022, EPA conducted an on-site inspection of the Facility.

36. Grimmel has an Air Emissions License issued by the ME DEP on April 6, 2017. The

Air Emissions License (A-760-71-D-R/A (SM)) regulates the diesel-powered generators on-site. The Air Emissions License does not address emissions from shredding operations.

37. EPA has collected emissions data documented in test reports from multiple metal shredding facilities located across the United States with comparable feedstock and feed rate to Grimmel's. EPA has determined that based on these data, together with information provided by Grimmel in its response to the October 25, 2021, Reporting Requirement, that the Facility's potential to emit (PTE) VOCs is greater than 50 tons per year (TPY) from shredding activities.

38. Based on the emissions data described in Paragraph 37, together with information provided by Grimmel in its response to the October 25, 2021, Reporting Requirement, and information collected during EPA's May 18, 2022, on-site inspection of the Facility, EPA has determined under normal operating conditions the Facility exceeds 100 lbs/day and 10 lbs/hour of VOC emissions.

39. On March 21, 2023, EPA issued a Notice of Violation ("NOV") to the Respondent, and sent a copy to ME DEP, for, among other things, violations of the Maine SIP.

40. On June 21, 2024, Respondent submitted an application to ME DEP for a State Facility Permit for its shredding operations using an emission factor of no less than 0.243 lbs of VOC per gross ton of scrap, which is based on VOC emission testing conducted at comparable facilities and a throughput of 40% end-of-life vehicles ("ELVs") by weight of total material processed. The application included a facility-wide VOC emission limitation of 39.14 tons of VOC per year, a limit below the major source and VOC RACT applicability thresholds.

E. CONCLUSIONS OF LAW

Based on the Findings of Fact set forth above, EPA alleges as follows:

41. Respondent is a "person" within the meaning of Section 302(e) of the Act.
42. Respondent is the owner and operator of the Facility.

43. Respondent's failure to obtain a license addressing its shredder, as a stationary source that emits VOC from its shredder, is a violation. *See* Maine SIP, Chapter 115 § II.A, II.C.
44. Respondent's failure to comply with reasonably available control technology ("RACT") requirements, as a Facility that has the potential to emit in excess of 40 tons per year of VOCs, is a violation. *See* Maine SIP, Chapter 134 § I.A.1.
45. Respondent's failure to obtain and maintain the required permits, as a "major source" Facility, with the potential to emit in excess of 50 tons per year of VOCs in the ozone transport region ("OTR"), is a violation. *See* Maine SIP, Chapter 100, 112(C)(2)(b); 42 U.S.C. § 7661a(a), 40 C.F.R. § 70.7(b); 42 U.S.C. § 7661b(c), and 40 C.F.R. § 70.5.

F. TERMS OF CONSENT AGREEMENT

46. For purposes of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:
 - a. admits that the EPA has jurisdiction over the subject matter alleged in this Consent Agreement.
 - b. neither admits nor denies the factual allegations and alleged violations of law stated above;
 - c. consents to the assessment of a civil penalty as stated below;
 - d. consents to the conditions specified in this Consent Agreement;
 - e. has submitted an appropriate permit application to the State of Maine on June 21, 2024, as summarized in Paragraph 40, above;
 - f. has included a VOC emission factor of no less than 0.243 pounds per gross ton of scrap shredded in its permit application for the shredder, which factor is based on VOC emission testing conducted at comparable facilities and a throughput of 40% ELVs by weight of total material processed;
 - g. waives any right to contest the conclusions of law set forth in Section E of this

Consent Agreement; and

- h. waives its right to appeal the Final Order accompanying this Consent Agreement.
47. For purposes of this proceeding, Respondent:
- a. agrees that this Consent Agreement states a claim upon which relief may be granted against Respondent;
 - b. acknowledges that this Consent Agreement constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement actions under Section 113(e) of the Clean Air Act, 42 U.S.C. § 7413(e);
 - c. consents to the issuance of the attached Final Order;
 - d. waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this Final Order, including any right of judicial review under Section 307(b)(1) of the Clean Air Act, 42 U.S.C. § 7607(b)(1);
 - e. consents to personal jurisdiction in any action to enforce this Consent Agreement or Final Order, or both, in the United States District Court; and
 - f. waives any rights it may possess at law or in equity to challenge the authority of the EPA to bring a civil action in a United States District Court to compel compliance with the Consent Agreement or Final Order, or both, and to seek an additional penalty for such noncompliance, and agrees that federal law shall govern in any such civil action.

Civil Penalty

48. Pursuant to Section 113(d) of the Act, 42 U.S.C. § 7413(d), Respondent shall pay the civil penalty of \$42,613 ("EPA Penalty") within 30 calendar days of the effective date specified in Section H of this Consent Agreement ("Effective Date"). To pay the penalty, Respondent shall submit the full

amount of \$42,613 via a company, bank, cashier's, or certified check payable to the order of the "Treasurer, United States of America." Respondent shall send the check via express or certified mail to the address below for signed receipt confirmation:

U.S. Environmental Protection Agency
Government Lockbox 979078
3180 Rider Trail S.
Earth City, MO 63045

Contact: Craig Steffen
(513) 487-2091, steffen.craig@epa.gov

In the alternative, Respondent may pay the full amount of the penalty via electronic payment (automated clearing house or wire transfer) in accordance with directions on the following EPA websites: <https://www.epa.gov/financial/makepayment> and <https://www.epa.gov/financial/additional-instructions-making-payments-epa>. Respondent shall include the case name and docket number ("In the Matter of Grimm Industries, Inc., Docket No. CAA-01-2024-0048") on the face of the check or electronic transfer confirmation.

In addition, at the time of payment, Respondent shall send a notice of the penalty payment and a copy of the check or electronic transfer confirmation to:

Wanda I. Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code 4-MO
Boston, Massachusetts 02109-3912
santiago.wanda@epa.gov

and

Lindsey Short
Attorney-Advisor
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code 4-WI
Boston, Massachusetts 02109-3912
short.lindsey@epa.gov

49. If Respondent fails to timely pay the full amount of the EPA Penalty assessed under this

Consent Agreement, the EPA may:

- a. request the Attorney General to bring a civil action in an appropriate district court to recover: the amount assessed; interest at rates established pursuant to 26 U.S.C. § 6621(a)(2); the United States' enforcement expenses; and a 10 percent quarterly nonpayment penalty, pursuant to 42 U.S.C. § 7413(d)(5);
- b. refer the debt to a credit reporting agency or a collection agency, or the Department of Justice, pursuant to 42 U.S.C. § 7413(d)(5); 40 C.F.R. §§ 13.13, 13.14, and 13.33;
- c. collect the debt by administrative offset (*i.e.*, the withholding of money payable by the United States to, or held by the United States, for a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, pursuant to 40 C.F.R. Part 13, Subparts C and H; and
- d. suspend or revoke Respondent's licenses or other privileges or suspend or disqualify Respondent from doing business with the EPA or engaging in programs the EPA sponsors or funds, pursuant to 40 C.F.R. § 13.17.

50. The parties agree that Respondent and EPA may execute this CAFO by electronic signature. To ensure the validity of these signatures and legal enforceability of this CAFO, EPA electronic signatures will comply with the Agency's 2018 Electronic Signature Policy and Electronic Signature Procedure. Respondent's signature will also comply with all applicable Maine e-signature policies and laws, including the EPA regulations at 40 C.F.R. Part 3, which defines a "valid electronic signature" to mean "an electronic signature on an electronic document that has been created with an electronic signature device that the identified signatory is uniquely entitled to use for signing that document, where this device has not been compromised, and where the signatory is an individual who is authorized to sign the document

by virtue of his or her legal status and/or his or her relationship to the entity on whose behalf the signature is executed.” 40 C.F.R. § 3.3. At a minimum, all electronically signed documents must be reproducible in a human-intelligible form and clearly indicate: (1) that the document was electronically signed; (2) the unique identity of the individual who signed the document and their intent to sign; and (3) the date and time it was signed. Once the CAFO is signed by a party, the document must be locked to prevent any further alteration of the document. Respondent may deliver electronically signed documents by email to the EPA at short.lindsey@epa.gov.

51. After EPA’s receipt of the signed CAFO, EPA may electronically sign the CAFO and file and serve copies of the executed CAFO in accordance with the EPA Region 1 Regional Judicial Officer’s Standard Operating Procedures dated June 19, 2020. An electronically signed CAFO delivered by email or in hard copy shall be deemed an original document, which shall be stored and managed in accordance with Maine and Federal recordkeeping requirements. EPA and Respondent acknowledge that electronic signatures carry the legal effect, validity, or enforceability of handwritten signatures. Therefore, the parties shall not deny the legal effect, validity, or enforceability of records containing electronic signatures that they transmit and receive on the ground that such records, including the signature(s), are in electronic form.

52. Respondent further consents to receipt of service of the executed CAFO, once filed, by electronic mail to: brayback@pierceanwood.com.

G. EFFECT OF CONSENT AGREEMENT AND ATTACHED FINAL ORDER

53. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this Consent Agreement and Final Order resolves only Respondent’s liability to the United States for federal civil penalties for the violations specifically alleged above.

54. Penalties paid pursuant to this Consent Agreement shall not be deductible for purposes of federal taxes.

55. For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 1.162-21(b)(2), performance of Paragraph 46(e) is restitution, remediation, or required to come into compliance with the law.

56. This Consent Agreement constitutes the entire agreement and understanding of the parties and supersedes any prior agreements or understandings, whether written or oral, among the parties with respect to the subject matter hereof.

57. The terms, conditions, and compliance requirements of this Consent Agreement may not be modified or amended except upon the written agreement of both parties, and approval of the Regional Administrator or other delegate.

58. Any violation of this Consent Agreement and Final Order may result in EPA pursuing a civil judicial action for an injunction or civil penalties of up to \$121,275 per day per violation, or both, as provided in Section 113(b)(2) of the Act, 42 U.S.C. § 7413(b)(2) (as adjusted for inflation pursuant to 40 C.F.R. § 19.4), as well as criminal sanctions, as provided in Section 113(c) of the Act, 42 U.S.C. § 7413(c). The EPA may use any information submitted under this Consent Agreement and Final Order in an administrative, civil judicial, or criminal action. Respondent reserves and may assert any available argument and defense and may use any information submitted under this Consent Agreement and Final Order, in response to any such action pursued by the EPA.

59. Nothing in this Consent Agreement shall relieve Respondent of the duty to comply with all applicable provisions of the Act and other federal, state, or local laws or statutes, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.

60. Nothing herein shall be construed to limit the power of the EPA to undertake any action

against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.

61. The EPA reserves the right to revoke this Consent Agreement and settlement penalty if and to the extent that the EPA finds, after signing this Consent Agreement, that any information provided by Respondent was materially false or inaccurate at the time such information was provided to the EPA. The EPA reserves the right to assess and collect any and all civil penalties for any violation described herein. Under such circumstance, Respondent reserves the right to assert any available argument and defense to any such claim by the EPA. The EPA shall give Respondent notice of its intent to revoke, which shall not be effective until received by Respondent in writing.

H. EFFECTIVE DATE

62. Respondent and Complainant agree to issuance of the attached Final Order. Upon filing, the EPA will transmit a copy of the filed Consent Agreement to the Respondent. This Consent Agreement and attached Final Order shall become effective after execution of the Final Order by the Regional Judicial Officer, on the date of filing with the Hearing Clerk.

FOR RESPONDENT:

A handwritten signature in black ink, consisting of a stylized first name and a large, oval-shaped flourish.

Toby Grimmel
Vice President

7/15/24
Date

FOR COMPLAINANT:

James Chow, Director
Enforcement and Compliance Assurance Division
EPA Region 1

Date _____

FINAL ORDER

In accordance with 40 C.F.R. § 22.18(b) of the Consolidated Rules, the Parties to this matter have forwarded the foregoing executed Consent Agreement for final approval. Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), authorizes EPA to issue an administrative penalty to address violations of the CAA, with penalties assessed after consideration of the penalty factors set forth in Section 113(e)(1) of the CAA, 42 U.S.C. § 7413(e)(1). In addition, Section 113(d)(2)(B) of the CAA, 42 U.S.C. § 7413(d)(2)(B), authorizes EPA to compromise CAA penalties in an administrative penalty case. Pursuant to these provisions, and in light of the facts and circumstances of this case, including Respondent's cooperation to date and agreement to perform non-penalty conditions, Complainant EPA Region 1 has modified the CAA administrative penalty and imposed the conditions described in Section F of the CAFO. Respondent has consented to the terms of this CAFO.

Pursuant to 40 C.F.R. §§ 22.18(b) and (c) of the Consolidated Rules, the foregoing Consent Agreement resolving this matter is incorporated by reference into this Final Order and is hereby ratified. Respondent *Grimmel Industries, Inc.*, is ordered to comply with the terms of this CAFO and to pay the civil penalty specified therein. The terms of the Consent Agreement shall become effective on the date that the CAFO is filed with the Regional Hearing Clerk.

LeAnn Jensen
Regional Judicial Officer
EPA Region 1

Date