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AIR QUALITY DIVISION

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December 17, 2015

Mr. Nathan Hude  
Environmental Quality Analyst  
Air Quality Division  
Michigan Department of Environmental Quality  
Constitution Hall  
525 West Allegan Street  
P.O. Box 30242  
Lansing, MI 48909-7742

**RE: SUPPLEMENTAL RESPONSE OF RJ TORCHING, INC. TO THE SEPTEMBER 2, 2015 AND SEPTEMBER 8, 2015 VIOLATION NOTICE LETTERS, AND IN FURTHER RESPONSE TO MDEQ'S SECOND VIOLATION NOTICE DATED DECEMBER 4, 2015**  
**SRN: N7885, GENESEE COUNTY**

Dear Mr. Hude:

As previously stated, RJ Torching, Inc. ("RJT") appreciates MDEQ's commitment to addressing air emission issues. RJT is similarly committed, and appreciates the opportunity of working with MDEQ in seeking to rectify air emission problems. RJT has made a substantial investment over a number of years in the development of air emission control technology, "SPARCS", which USEPA has endorsed, and which RJT utilizes in appropriate circumstances and conditions to reduce or eliminate VEs in connection with torch cutting of certain materials and objects. RJT has developed, along with the Responsible Recyclers Association, torch cutting Best Management Practices ("BMPs") which have also been endorsed by USEPA as being effective in proactively limiting VEs. RJT has incorporated the BMPs in its company policies.

### **Introduction**

After MDEQ issued its Violation Notice letters of September 2 and September 8, 2015, RJT submitted a Freedom of Information Act (FOIA) request to MDEQ to assist it in evaluating the information upon which MDEQ relied in issuing its violation notices. Based upon a review of the documents produced pursuant to FOIA, it appears that MDEQ's site visits in the fall of 2015 arose after a series of complaints, both anonymous and named, which were received by MDEQ. Upon review of the redacted documentation associated with those complaints and the resulting reports generated by MDEQ, RJT has determined that:

1. A number of the third party complaints identified in the FOIA materials which apparently gave rise to MDEQ's site visits, appear to relate to operations conducted by others, not RJT, or otherwise lack sufficient factual basis to be attributable to actions of RJT (i.e., complaints of activities allegedly taking place at RJT, even though RJT's operations had ceased and the business had closed for the day many hours before the alleged incidents occurred.
2. In other complaints, the informants made reference to other facilities known or suspected of being the source of visual and olfactory stimuli, including a power plant, and not RJT.
3. In another instance, the alleged odor violation (Rule 901) identified in the September 2, 2015 letter appears to relate to a location at 5040 South Dort Highway, miles remote from RJT's facility at G5167 North Dort Highway, in Flint, and thus not likely emanating from RJT's facility.

However, as a result of MDEQ's investigation and issuance of its letters of September 2 and September 8, 2015, RJT conducted its own investigation. RJT found that, although it had developed policies and procedures to reduce or eliminate VE opacity violations, and had obtained USEPA approval of its policies and procedures, if its procedures were not followed, emissions may still occur.

As a direct result of its investigation, RJT took immediate steps to address the issues raised by MDEQ. This resulted in the termination of a yard supervisor and his immediate supervisor for failing to comply with company policies.

RJT is confident that its increased scrutiny of the daily implementation of its policies and procedures has effectively addressed the issues raised by MDEQ. It is further optimistic that upon review of the following responses, MDEQ will reconsider the Violation Notices, or otherwise determine that RJT has complied with the requirements of Rules 301, 901 and 310, as well as the ACO.

The following is RJT's response to each of the Rule/Permit Conditions for which MDEQ issued its Violation Notice letters of September 2 and September 8, 2015. In providing these responses, RJT also responds to the Second Violation Notice letter of MDEQ dated December 4, 2015.

**A. Cited Alleged Violations of Rules 301, 901 and 310**

**(1) Rule 301-Smoke from Torch Cutting Operations Exceeded 20%**

The September 2, 2015 letter pertaining to the August 27, 2015 site visit comments that "smoke from the torch cutting operations exceeded opacity of 20%." RJT submits that opacity readings are extremely subjective but notes that the documents furnished do not appear to specify the source of the visible emissions allegedly exceeding the parameters of Rule 301. Based upon the narrative and the reports produced by MDEQ pursuant to the Freedom of Information Act, there is no reference to the multiple torch-cutting sources at the facility on August 27, 2015.

Proper measurement of opacity according to the rules requires a reading of the individual source of the opacity. According to RJT's records, on August 27, 2015 there were no less than three different torch cutting sources, none of which appears to have been

identified as the source of the opacity readings. Notwithstanding this fact, RJT has undertaken to minimize its emissions, and is re-examining the procedures employed, including possible more frequent use of SPARCS at its facility.

Given that it does not appear that the opacity readings upon which this alleged violation was based identify the actual source of the emission, RJT believes that the opacity readings used to support the violation are invalid. According to the Violation Notice letter of September 2, 2015, the observations upon which the violation notice was based took place on August 27, 2015. On that date, RJT's records indicate that there were three Torchmen using separate torches at the facility at different locations, and thus there were three separate potential resources at RJT's facility located at G5167 North Dort Highway, in Flint.

Not unlike a facility with separate stacks, it is essential that the actual source of a plume be identified, isolated and examined to determine if there is an exceedance from a particular source, after meeting all of the other visual requirements under the VE9 protocols. These protocols specifically require a line of site to the source of the plume. The records produced in conjunction with the VE9 readings taken by MDEQ do not identify the source of the emission, and specifically indicate that the observation was made "over a fence and office type building", indicating no eye contact or line of site to the alleged source of the plume. Thus, there is no way to confirm the accuracy of the opacity readings, where there were three separate Torchmen operating. Accordingly, RJT respectfully requests that MDEQ dismiss the alleged violation of Rule 301.

**(2) Rule 901-Level 4 Odors and Smoke Engulfed Dort Highway and Neighboring Area to East**

The September 2 violation notice letter states that "Level 4 odors and smoke engulfed Dort Highway and neighboring area to the East". The letter specifically states that "The AQD staff detected odors and smoke obscuring the road at 5040 South Dort Highway..." However, the alleged odor violation (Rule 901) identified in the September 2, 2015 letter relating to a location at 5040 South Dort Highway, is miles remote from RJT's facility at G5167 North Dort Highway, in Flint. If this is correct, it is highly unlikely such odors could have emanated from RJT's facility located at G5167 North Dort Highway, in Flint. Accordingly, the alleged violation of Rule 901 should be dismissed.

Although this event may not have emanated from RJT's facility, RJT has undertaken to remind its employees of Best Management Practices to reduce odors. (See response to ACO Appendix A, Paragraphs 13 and 17)

**(3) Rule 310 Open Burning Violation**

As a result of the site visit on September 1, 2015 where MDEQ observed cast iron and rubber smoldering in the yard, steps have been taken to improve housekeeping and fire

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extinguishment activities in the vicinity of torch cutting operations. As previously stated, the direct supervisor of the activities in the yard was terminated on September 8, 2015 and his supervisor was terminated on October 2, 2015, both, for failing to follow RJT's protocols and procedures.

As part of these procedures, RJT has reminded its employees to ensure that scrap that is to be torch cut be drained of all fluids, where possible, and that all non-metal material be removed to the extent practicable, and that the object to be torch cut be properly cleaned prior to torch cutting, (ACO Paragraph 17), and that good housekeeping practices be more closely monitored in the torch cutting areas to eliminate, where practicable, foreign material that could create VEs if in contact with torch flames. (ACO Paragraph 13). Based upon the foregoing, RJT respectfully requests that the violation of Rule 310 be reconsidered.

**B. Cited Alleged Violations of EPA Administrative Consent Order (ACO):**

(1) **ACO Paragraph 23:** Paragraph 23 of the ACO requires that RJT develop a training program on all aspects of the Best Management Practices for Torch Cutting Operations, and that its employees who conduct torch cutting, and appropriate supervisors and managers, complete the training. In addition, refresher training is required at least annually, and RJT is required to document completion of the training for each such employee by date and signature.

**Response:**

RJ Torching, as a member of the Responsible Recyclers Association, helped craft the torch cutting Best Management Practices ("BMPs") which were supplied to USEPA and incorporated in Appendix A. These BMPs are routinely followed by RJT and its employees. RJT provided a copy of the Best Management Practices document to USEPA because they were then presently being utilized by RJT prior to the time the ACO was entered into. The BMPs had been incorporated into and were the basis for the training program referred to in ACO Paragraph 23. The training program is in place and RJT's requisite employees undertake annual training, as documented in the attached sign-in sheets for such training. The sign in sheets confirm that the training was completed less than 60 days prior to the entry of the ACO, having been furnished to RJT employees on February 7, 2015. Accordingly, RJT submits that the alleged violation of ACO Paragraph 23 be reconsidered and removed from the Violation Notice.

Since entry of the ACO, RJT has implemented daily documentation of not only the implementation of the training, but verification that the requisite Torchmen have completed the training. (See attached "EPA ACO Compliance Worksheets" which provide daily dated information concerning torch cutting activities which may take place on that date; document adherence to the BMPs; confirm current training of each Torchman; and confirm the daily weather readings, affecting torch cutting operations).

For the further reasons set forth in its response to the alleged violation of Rule 301 (above), RJT respectfully requests that MDEQ dismiss its violation notice based upon the alleged violation of ACO Paragraph 23, since this alleged violation is dependent upon a Rule 301 violation.

(2) **ACO Appendix A, Paragraph 8**: Paragraph 8 states that RJ shall ensure that its employees are aware of what materials are likely to produce higher VEs when torch cut and shall develop protocols to manage VEs when cutting those materials.

**Response:**

RJT trains its employees who are engaged in torch cutting to recognize potentially high VE materials and how to manage reduce or eliminate VE's. Each day, a specially designed worksheet (EPA ACO Compliance Worksheet ["worksheet"]) developed by RJT to help it document its compliance with and meet the goals of the ACO, is prepared at the beginning of the work day (see attached worksheets).

First, RJT documents whether torch cutting operations will be performed that day. If so, an additional eleven factual determinations must be made and recorded on the worksheet:

- (1) is the site map posted;
- (2) has the daily weather report been obtained and reviewed (for weather conditions that might affect torch-cutting operations);
- (3) confirm whether each of the Torchmen are current in their VE reduction protocol and work procedures (including BMPs) training;
- (4) determine whether a shear can be utilized in lieu of or to reduce torching;
- (5) determine whether SPARCS Unit is required;
- (6) confirm that preventive maintenance has been completed on all torch equipment that day;
- (7) confirm that housekeeping in the area of torch cutting has been completed;
- (8) confirm that fire prevention equipment is in place;
- (9) confirm that all fluids and non-metals have been drained or removed from metal objects to be torched;
- (10) confirm and record the opacity level from SPARCS exhaust (if SPARCS is used); and
- (11) verify that the horn is in place at the torching area.

Based upon RJT's experience working with various metals, and consistent with its BMPs and company policies, RJT considers the metallurgical properties and size of metal objects before torch-cutting, employing mechanical means such as shears (see attached photo) where possible to avoid torch cutting. Consistent with its BMPs, RJT also removes extraneous/combustible objects (where practicable) and drains all known fluids where possible (see photo) before torch cutting objects. In addition, RJT has discontinued the torch cutting of cast iron as much as possible but instead resells it, loads it out whole, breaks it or does not acquire the material. Finally, consistent with its BMPs, RJT utilizes SPARCS to torch cut when, based upon RJT's experience, and due to the object's metallurgical properties and size, emissions are expected to exceed the VE limit.

In this way RJT seeks to reduce or eliminate emissions and to avoid exceeding the VE limit. Accordingly, RJT submits that the alleged violation of ACO Appendix A, Paragraph 8 be reconsidered and removed from the Violation Notice.

**(3) ACO Appendix A, Paragraph 10:** Paragraph 10 states RJ shall utilize the SPARCS units, which are designed to reduce opacity from torch-cutting operations. EPA has determined that SPARCS is an emission control technology, which, if properly maintained and utilized, should result in significant reduction of particulate emissions and opacity from torch-cutting operations to comply with the Michigan Clean Air Act and Rule 333.1301 of the Michigan SIP.

**Response:**

This paragraph must be read in conjunction with Paragraph 19 of Appendix A to the ACO which provides that torch cutting shall be conducted in a SPARCS unit when, due to the scrap metallurgical properties and size, emissions are expected to exceed the VE limit. RJT does utilize SPARCS, when, consistent with the ACO, it determines that SPARCS should be utilized. (Please see RJT's response to item 2 above, which it incorporates by reference).

**(4) ACO Paragraph 13:** "RJ shall conduct good housekeeping practices in the torch-cutting areas to eliminate, to the extent practicable, foreign material that could create VEs if it is in contact with torch flames."

**Response:**

As a result of the site visit on September 1, 2015 where MDEQ observed cast iron and rubber smoldering in the yard, steps have been taken to improve housekeeping and fire extinguishment activities in the vicinity of torch cutting operations. As previously stated, the direct supervisor of the activities in the yard was terminated on September 8, 2015 and his supervisor was terminated on October 2, 2015, both, for failing to follow RJT's protocols and procedures.

As part of these procedures, RJT has reminded its employees to ensure that scrap to be torch cut is drained of all fluids, has all non-metal material removed to the extent practicable and that it has been properly cleaned prior to torch cutting, (ACO Paragraph 17) and that good housekeeping practices be more closely monitored in the torch cutting areas to eliminate, where practicable, foreign material that could create VEs if in contact with torch flames. (ACO Paragraph 13)

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**Conclusion**

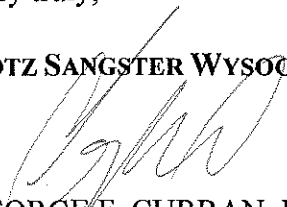
For the reasons set forth above, RJT respectfully requests that MDEQ reconsider its Violation Notice letters dated September 2, and September 8, 2015, and its Second Violation letter of December 4, 2015.

As a direct result of MDEQ's work, RJT has revisited its procedures, resulting in the termination of two key supervisory employees for failing to comply with company policy. RJT is continuing to implement new procedures to improve its abilities to minimize air emission problems, and has undertaken to address each of the issues raised by MDEQ, which were separately investigated by RJT. As a result, RJT has made improvements to its procedures and has improved the monitoring and supervision of its BMPs.

RJT will continue to cooperate with MDEQ and work to improve its procedures so that VE's can be further reduced.

Very truly,

**KOTZ SANGSTER WYSOCKI P.C.**



GEORGE F. CURRAN, III

GFC/med

Enclosure

**VIA FEDERAL EXPRESS (WITH ENCLOSURES)**

**AND EMAIL TO [huden@michigan.gov](mailto:huden@michigan.gov) (W/O ENCLOSURES)**

cc: RJ Torching, Inc., Mr. Jason Roughton (Via Email)