

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF THE DIRECTOR

In the matter of administrative proceedings)
against **EES COKE BATTERY, LLC**, a)
corporation organized under the laws of the)
State of Michigan and doing business on Zug)
Island, in the City of River Rouge, County of)
Wayne, State of Michigan)
)

AQD No. 57-2014

SRN: P0408

STIPULATION FOR ENTRY OF FINAL ORDER
BY CONSENT

This proceeding resulted from allegations by the Michigan Department of Environmental Quality (MDEQ) Air Quality Division (AQD) against EES Coke Battery, LLC (Company), a Michigan corporation doing business on Zug Island, River Rouge, Michigan, with State Registration Number (SRN) P0408. The MDEQ alleges that the Company is in violation of Renewable Operating Permit (ROP) 199600132d and Permit to Install (PTI) No. 51-08. All alleged violations are associated with the No. 5 Coke Battery identified as EGCOKE-BATTERY in ROP 199600132d. Specifically, the MDEQ alleges that the Company exceeded the hydrogen sulfide and benzene emission limits from the combustion stack, exceeded the benzene emission limit from the pushing emission control system (PECS) baghouse, exceeded coke oven gas consumption limits, the flare height does not meet the permitted value, failed to complete certain inspections of the PECS baghouse and capture system, and failed to maintain adequate records to demonstrate compliance with requirements to inspect and take corrective action as needed for the PECS capture system, PECS baghouse, and quench tower baffles. The Company is also alleged to have failed to use the proper calibration gas for leak detection instruments and failed to operate the continuous emission rate monitoring system (CERMS) in a satisfactory manner. These alleged violations were cited in Violation Notices dated July 26, 2012, June 10, 2013, and November 1, 2013. The Company and MDEQ stipulate to the termination of this proceeding by entry of this Stipulation for Entry of a Final Order by Consent (Consent Order).

The Company and MDEQ stipulate as follows:

1. The Natural Resources and Environmental Protection Act, 1994 PA 451 (Act 451), MCL 324.101 *et seq.* is an act that controls pollution to protect the environment and natural resources in this State.

2. Article II, Pollution Control, Part 55 of Act 451 (Part 55), MCL 324.5501 *et seq.* provides for air pollution control regulations in this State.

3. The MDEQ was created as a principal department within the Executive Branch of the State of Michigan pursuant to Executive Order 2011-1 and has all statutory authority, powers, duties, functions and responsibilities to administer and enforce all provisions of Part 55.

4. The Director has delegated authority to the Chief of the AQD (AQD Chief) to enter into this Consent Order.

5. The termination of this matter by a Consent Order pursuant to Section 5528 of Part 55 is proper and acceptable.

6. The Company and the MDEQ agree that the signing of this Consent Order is for settlement purposes only and does not constitute an admission by the Company that the law has been violated.

7. This Consent Order becomes effective on the date of execution (effective date of this Consent Order) by the AQD Chief.

8. The Company shall achieve compliance with the aforementioned regulations in accordance with the requirements contained in this Consent Order.

COMPLIANCE PROGRAM AND IMPLEMENTATION SCHEDULE

9. A. Monitoring and Recordkeeping

1. No later than 90 days after the effective date of this Consent Order the Company shall submit a complete updated Monitoring Plan to include preventative maintenance for the Continuous Emission Rate Monitoring System (CERMS) to the AQD Detroit District Supervisor and the Technical Programs Unit Supervisor. This plan shall include the following: a list of the CERMS parameters that are monitored and their acceptable operating ranges; daily, weekly, and monthly checklists of the parameters that are monitored; daily, weekly, monthly, and quarterly quality assurance procedures; if monitored parameters are outside of the acceptable range, a detailed description of corrective actions that will be taken and how these records will be maintained. This Monitoring Plan shall be reviewed and updated on an annual basis to include any changes made to the CERMS. Any previous versions of the Monitoring Plan shall be retained for the length of this Consent Order.

2. No later than 120 days after the effective date of this Consent Order the Company shall prepare a report which lists (i) any occurrence of any parameter outside the acceptable

range for the parameter, as defined in the updated Monitoring Plan required in the preceding paragraph, used in determining the CERMS operational performance (probe temperature, vacuum measurements, etc.) and (ii) the corrective action taken. This report shall be submitted with the first quarterly EER/Monitor Downtime Report filed more than 120 days after the effective date of this Consent Order and submitted with each quarterly EER/Monitor Downtime Report, thereafter.

3. On and after the effective date of this Consent Order the Company shall use a calibration gas for instrument calibration that is in compliance with 40 CFR 61 Subpart V.

B. Continuous Emission Rate Monitoring System Compliance Plan

1. No later than 90 days after the effective date of this Consent Order the Company shall submit a letter to the AQD Detroit District Supervisor with the results of the Company's evaluation of the CERMS shelter location and if the CERMS shelter will be relocated.

2. If it is determined by the Company to relocate the CERMS shelter, it shall be completed no later than 9 months after the effective date of this Consent Order.

3. No later than 90 days after the effective date of this Consent Order the Company shall submit a letter to the AQD Detroit District Supervisor with the results of the Company's evaluation of the CERMS dilution air system. Specifically, the dilution air compressor will be evaluated for its ability to consistently meet the pressure requirements of the CERMS, and the potential for upgrading the dilution air dehumidification process and dilution air dust filtration system will be determined. All identified changes or upgrades to the CERMS dilution air system shall be completed upon the relocation of the CERMS shelter. If it is determined that the CERMS shelter cannot be relocated, then all identified changes or upgrades to the CERMS dilution air system shall be completed no later than 6 months after the effective date of this Consent Order.

4. No later than 120 days after the effective date of this Consent Order the Company shall submit a letter to the AQD Detroit District Supervisor with the results of the Company's evaluation of CERMS flow monitoring technologies. Specifically, alternative flow monitoring technologies will be evaluated to address reversals, stratification and their need for additional monitoring ports. All identified changes or upgrades to the CERMS flow monitoring system shall be completed upon the relocation of the CERMS shelter. If it is determined that the CERMS shelter cannot be relocated, then

all identified changes or upgrades to the CERMS flow monitoring system shall be completed no later than 9 months after the effective date of this Consent Order.

5. No later than 120 days after the effective date of this Consent Order the Company shall submit a letter to the AQD Detroit District Supervisor with the results of the Company's evaluation of the CERMS data acquisition and handing system. Specific improvements may include: upgrading to a windows-based system, connecting the system to the Company's network, and allowing the maintenance contractor remote access for diagnostics and troubleshooting. All identified changes or upgrades to the CERMS data acquisition and handing system shall be completed upon relocation of the CERMS shelter. If it is determined that the CERMS shelter cannot be relocated, then all identified changes or upgrades to the CERMS data acquisition and handing system shall be completed no later than 9 months after the effective date of this Consent Order.

6. No later than 90 days after the effective date of this Consent Order the Company shall submit a letter to the AQD Detroit District Supervisor with the results of the Company's evaluation of identifying potential beneficial internal diagnostics of the CERMS system. Specific improvements for consideration may include: installing an orifice pressure monitor and adjusting the blowback and purge parameters. All identified internal diagnostic changes to the CERMS system shall be completed on the same schedule detailed in paragraph 9.B.5 of this Consent Order.

7. No later than 60 days after the effective date of this Consent Order the Company shall develop written Standard Work Instructions that include step-by-step instructions for each operating and maintenance task associated with the CERMS system.

8. The AQD Detroit District Supervisor may in writing grant an extension to any deadline in paragraph 9.B. Any request by the Company for an extension shall be made in writing and no less than 14 days before the deadline.

GENERAL PROVISIONS

10. This Consent Order in no way affects the Company's responsibility to comply with any other applicable state and federal, or local laws or regulations, including without limitation, any amendments to the federal Clean Air Act, 42 USC 7401 *et seq.*, Act 451, Part 55 or their rules and regulations, or to the State Implementation Plan.

11. This Consent Order constitutes a civil settlement and satisfaction as to the resolution of the violations specifically addressed herein; however, it does not resolve any criminal action that may result from these same violations.

12. Within thirty (30) days after the effective date of this Consent Order, the Company shall pay to the General Fund of the State of Michigan, in the form of a check made payable to the "State of Michigan" and mailed to the Michigan Department of Environmental Quality, Accounting Services Division, Cashier's Office, P.O. Box 30657, Lansing, Michigan 48909-8157, a settlement amount of \$95,000.00 which includes AQD costs for investigation and enforcement. This total settlement amount shall be paid within thirty (30) days of the effective date of this Consent Order. To ensure proper credit, all payments made pursuant to this Consent Order shall include the "Payment Identification Number AQD40066" on the front of the check and/or in the cover letter with the payment. This settlement amount is in addition to any fees, taxes, or other fines that may be imposed on the Company by law.

13. On and after the effective date of this Consent Order, if the Company fails to comply with paragraph 9.A.1, 9.A.2, 9.A.3, 9.B.1, 9.B.2, 9.B.3, 9.B.4, 9.B.5, 9.B.6, or 9.B.7 of this Consent Order, the Company is subject to stipulated fines of up to \$3,000.00 per violation. The amount of the stipulated fines imposed pursuant to this paragraph shall be within the discretion of the MDEQ. Stipulated fines submitted under this Consent Order shall be by check, payable to the State of Michigan within thirty (30) days of written demand and shall be mailed to the Michigan Department of Environmental Quality, Accounting Services Division, Cashier's Office, P.O. Box 30657, Lansing, Michigan 48909-8157. To ensure proper credit, all payments shall include the "Payment Identification Number AQD40066-S" on the front of the check and/or in the cover letter with the payment. Payment of stipulated fines shall not alter or modify in any way the Company's obligation to comply with the terms and conditions of this Consent Order.

14. The AQD, at its discretion, may seek stipulated fines or statutory fines for any violation of this Consent Order which is also a violation of any provision of applicable federal and state law, rule, regulation, permit, or MDEQ administrative order. However, the AQD is precluded from seeking both a stipulated fine under this Consent Order and a statutory fine for the same violation.

15. To ensure timely payment of the settlement amount assessed in paragraph 12 and any stipulated fines assessed pursuant to paragraph 13 of this Consent Order, the Company shall pay an interest penalty to the State of Michigan each time it fails to make a complete or timely payment under

this Consent Order. The interest penalty shall be determined at a rate of twelve percent (12%) per year compounded annually, using the full increment of amount due as principal, calculated from the due date specified in this Consent Order until the date that delinquent payment is finally paid in full. Payment of an interest penalty by the Company shall be made to the State of Michigan in accordance with paragraph 13 of this Consent Order. Interest payments shall be applied first towards the most overdue amount or outstanding interest penalty owed by the Company before any remaining balance is applied to subsequent payment amount or interest penalty.

16. The Company agrees not to contest the legal basis for the settlement amount assessed pursuant to paragraph 12. The Company also agrees not to contest the legal basis for any stipulated fines assessed pursuant to paragraph 13 of this Consent Order, but reserves the right to dispute in a court of competent jurisdiction the factual basis upon which a demand by MDEQ of stipulated fines is made. In addition, the Company agrees that said fines have not been assessed by the MDEQ pursuant to Section 5529 of Part 55 and therefore are not reviewable under Section 5529 of Part 55.

17. This compliance program is not a variance subject to the 12 month limitation specified in Section 5538 of Part 55.

18. This Consent Order shall remain in full force and effect for a period of at least three (3) years. Thereafter, the Consent Order shall terminate only upon written notice of termination issued by the AQD Chief. Prior to issuance of a written notice of termination, the Company shall submit a request, to the AQD Chief at the Michigan Department of Environmental Quality, Air Quality Division, P.O. Box 30260, Lansing, Michigan 48909-7760, consisting of a written certification that the Company has fully complied with all the requirements of this Consent Order and has made all payments including all stipulated fines required by this Consent Order. Specifically, this certification shall include: (i) the date of compliance with each provision of the compliance program and the date any payments or stipulated fines were paid; (ii) a statement that all required information has been reported to the AQD Detroit District Supervisor; (iii) confirmation that all records required to be maintained pursuant to this Consent Order are being maintained at the facility; and, (iv) such information as may be requested by the AQD Chief.

19. In the event that the Company sells or transfers the No. 5 Coke Battery at the facility identified with SRN A7809, the Company shall advise any purchaser or transferee of the existence of this Consent Order in connection with such sale or transfer. Within thirty (30) calendar days, the Company

shall also notify the AQD Detroit District Supervisor, in writing, of such sale or transfer, the identity and address of any purchaser or transferee, and confirm the fact that notice of this Consent Order has been given to the purchaser and/or transferee. As a condition of the sale, the Company must obtain the consent of the purchaser and/or transferee, in writing, to assume all of the obligations of this Consent Order. A copy of that agreement shall be forwarded to the AQD Detroit District Supervisor within thirty (30) days of assuming the obligations of this Consent Order.

20. Prior to the effective date of this Consent Order and pursuant to the requirements of Sections 5511 and 5528(3) of Part 55, the public was notified of a 30-day public comment period and was provided the opportunity for a public hearing.

21. Section 5530 of Part 55 may serve as a source of authority but not a limitation under which the Consent Order may be enforced. Further, Part 17 of Act 451 and all other applicable laws and any other legal basis or applicable statute may be used to enforce this Consent Order.

22. The Company hereby stipulates that entry of this Consent Order is a result of an action by MDEQ to resolve alleged violations of its No. 5 Coke Battery located on Zug Island, Detroit, Michigan. The Company further stipulates that it will take all lawful actions necessary to fully comply with this Consent Order, even if the Company files for bankruptcy in the future. The Company will not seek discharge of the settlement amount and any stipulated fines imposed hereunder in any future bankruptcy proceedings, and the Company will take necessary steps to ensure that the settlement amount and any future stipulated fines are not discharged. The Company, during and after any future bankruptcy proceedings, will ensure that the settlement amount and any future stipulated fines remain an obligation to be paid in full by the Company to the extent allowed by applicable bankruptcy law.

The undersigned certifies that he/she is fully authorized by the Company to enter into this Consent Order and to execute and legally bind the Company to it.

EES COKE BATTERY, LLC

Mark H. Rigby
Vice President, Finance and Accounting

Print Name and Title

Mark H. Rigby

Signature Date: 12/10/14

The above signatory subscribed and sworn to before me this 10 day of December, 2014.

ERIN K. HAMMEL
NOTARY PUBLIC, STATE OF MI
COUNTY OF WAYNE
MY COMMISSION EXPIRES Jan 13, 2021
ACTING IN COUNTY OF Washtenaw

Erin K. Hammel

Notary Public

Approved as to Content:

Lynn Fiedler

Lynn Fiedler, Acting Chief
AIR QUALITY DIVISION
DEPARTMENT OF
ENVIRONMENTAL QUALITY

Dated: 1/8/15

Approved as to Form:

Neil Gordon

Neil Gordon, Section Head
ENVIRONMENTAL REGULATION SECTION
ENVIRONMENT, NATURAL RESOURCES,
AND AGRICULTURE DIVISION
DEPARTMENT OF ATTORNEY GENERAL

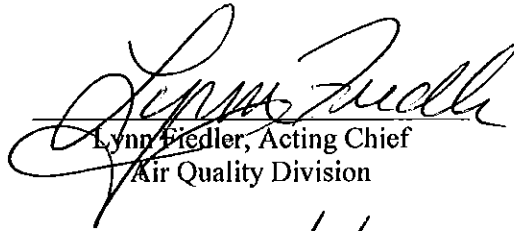
Dated: Jan. 2, 2015

FINAL ORDER

The Chief of the Air Quality Division having had opportunity to review the Consent Order and having been delegated authority to enter into Consent Orders by the Director of the Michigan Department of Environmental Quality pursuant to the provisions of Part 55 of Act 451 and otherwise being fully advised on the premises,

HAS HEREBY ORDERED that the Consent Order is approved and shall be entered in the record of the MDEQ as a Final Order.

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY



Lynn Fiedler, Acting Chief
Air Quality Division

Effective Date: 1/8/15