

**STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF THE DIRECTOR**

In the matter of administrative proceedings)
against **FOGELSONGER VAULT CO.**, a)
corporation organized under the laws of the)
State of Michigan and doing business at)
1617 Lewis Street in City of Bay City,)
County of Bay, State of Michigan)
)

AQD No. 18-2016

SRN: N3247

ADMINISTRATIVE FINE ORDER

I. STATUTORY AUTHORITY

1. This is an administrative action pursuant to the Natural Resources and Environmental Protection Act, 1994 PA 451, (Act 451), MCL 324.101 *et seq.*, which is an act that controls pollution to protect the environment and natural resources in the 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 Michigan Department of Natural Resources (MDNR) is authorized pursuant to Section 5503 of Part 55 to administer and enforce all provisions of Part 55. Section 301 of Part 3 provides the authority to the Director of the MDNR to delegate powers and duties.

4. The MDEQ was created as a principal department within the Executive Branch of the State of Michigan pursuant to Executive Order 1995-18. All statutory authority, powers, duties, functions and responsibilities of the MDNR AQD were transferred to the Director of the MDEQ (Director).

5. The Director has delegated authority to the Chief of the AQD (AQD Chief) to issue this Administrative Fine Order.

6. Under the delegated authority of the AQD Chief, pursuant to Section 5529 of Part 55 of Act 451, the MDEQ may assess an administrative fine of up to \$10,000.00 for each instance of violation and, if the violation continues, for each day of continued noncompliance, if the MDEQ, on the basis of available information, finds that the person has violated or is in violation of this part or rule promulgated under this part, has failed to obtain a permit required under this part, violates an order under this part, or has failed to comply with the terms of a permit issued under this part. If a single event constitutes an instance of violation of any combination of this part, a rule promulgated under this part, or a permit issued or order entered under this part, the amount of the administrative fine for that single event shall not

exceed \$10,000.00 for that violation. The assessment of an administrative fine may be either a part of a compliance order or a separate order issued by the MDEQ.

7. The authority of the MDEQ under Section 5529 is limited to matters where the total administrative fine sought does not exceed \$100,000.00 and the first alleged date of violation occurred within twelve (12) months prior to initiation of the administrative action. Except as may otherwise be provided by applicable law, the MDEQ shall not condition the issuance of a permit on payment of an administrative fine assessed pursuant to Section 5529.

II. ALLEGATIONS

8. Fogelsonger Vault Co. (Company) owns and operates a incinerator used for cremating human and animal remains with the State Registration Number N3247 (SRN) located at 1617 Lewis Street, Bay City, Bay County, State of Michigan.

9. On December 15, 2015, the Company was alleged to be in violation of Permit to Install (PTI) 105-11 and PTI 44-15 by failing to monitor and record the temperature in the secondary combustion chamber of EUCREMATORY4, failing to keep, in a manner satisfactory to the MDEQ secondary combustion chamber temperature records of EUCREMATORY5, failing to follow the procedures of the approved Operation Plan for FGCREMATORY123 on September 22, 2015, failing to maintain the required temperature of each incinerator in FGCREMATORY123, failing to keep daily records of the stop time of each incinerator in FGCREMATORY123, and failing to maintain a log of each time the pollution control system alarm is triggered for any incinerator in FGCREMATORY123.

10. The Company contests these allegations, and has presented evidence to the MDEQ in support of its position.

III. GENERAL PROVISIONS

11. This Administrative Fine 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.

12. This Administrative Fine 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.

13. Section 5530 of Part 55 may serve as a source of authority but not a limitation under which the Administrative Fine 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 Administrative Fine Order.

14. The termination of this matter by an Administrative Fine Order pursuant to Section 5529 of Part 55 is proper and acceptable.

15. Payment of the administrative fine does not constitute an admission by the Company that the law has been violated.

16. This Administrative Fine Order becomes effective on the date of execution (effective date of this Administrative Fine Order) by the AQD Chief.

IV. ADMINISTRATIVE FINE

17. Based on the alleged violations in this Administrative Fine Order, the seriousness and the duration of the violations alleged, the size of the Company's business, the economic impact of the administrative fine on the business, the Company's full compliance history and good faith efforts to comply, the economic benefit of noncompliance, and other factors, the MDEQ is assessing an administrative fine of \$1,500.00 for the alleged violation in this Administrative Fine Order.

18. The administrative fine reflects a presumption of the Company's ability to pay the penalty, to continue in business based on the size of its operation and the economic impact of the administrative fine on its business.

19. Within thirty (30) days after the effective date of this Administrative Fine 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 \$1,500.00, which includes AQD costs for investigation and enforcement. To ensure proper credit, all payments made pursuant to this Administrative Fine Order shall include the Agreement Identification No. AQD40129 on the face of the check. This administrative fine is in addition to any fees, taxes, or other fines that may be imposed on the Company by law.

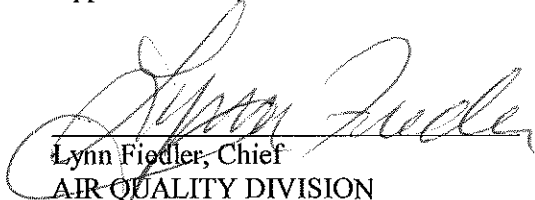
20. Pursuant to Section 5528 of Act 451 of Part 55 the Company has been given an opportunity to resolve the alleged violation(s) in paragraph 9 of this Administrative Fine Order through entry of an administrative consent order.

21. Upon payment of the administrative fine pursuant to paragraph 19 of this Administrative Fine Order, the MDEQ shall consider the alleged violation(s) as set forth in paragraph 9 to be resolved.

V. NOTICE OF OPPORTUNITY TO REQUEST A HEARING

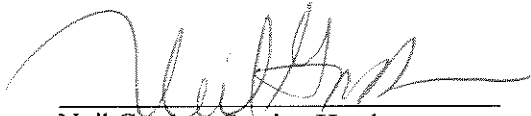
22. Within twenty-eight (28) days of being assessed an administrative fine from the MDEQ through this Administrative Fine Order, a person may file a petition with the MDEQ for review of this administrative fine. Review of the fine shall be conducted pursuant to the contested case procedures of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.271 and 24.287 of the Michigan Compiled Laws.

Approved as to Content:



Lynn Fiedler, Chief
AIR QUALITY DIVISION
DEPARTMENT OF
ENVIRONMENTAL QUALITY

Approved as to Form:



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

Dated:

4/6/16

Dated:

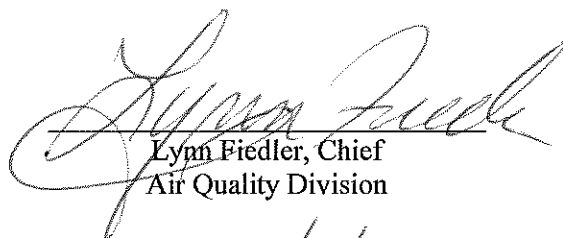
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ADMINISTRATIVE FINE ORDER

The Chief of the Air Quality Division having had opportunity to review the Administrative Fine Order and having been delegated authority to enter into Administrative Fine 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 ISSUED the approved Administrative Fine Order and it shall be entered in the record of the MDEQ as a Final Order.

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY



Lynn Friedler, Chief
Air Quality Division

Dated: 4/6/16