

STATE OF MICHIGAN  
MICHIGAN DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY  
OFFICE OF THE DIRECTOR

In the matter of administrative proceedings  
against **CAPITAL REGION AIRPORT  
AUTHORITY**, an airport authority organized  
under the laws of the State of Michigan and  
doing business at 3170 West State Road, in  
the City of Lansing, County of Ingham, State  
of Michigan

AQD No. 2022-13

SRN: N8035

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STIPULATION FOR ENTRY OF FINAL ORDER  
BY CONSENT

This proceeding resulted from allegations by the Michigan Department of Environment, Great Lakes, and Energy (EGLE), Air Quality Division (AQD) against Capital Region Airport Authority (CRAA), an airport authority organized under the laws of the State of Michigan and doing business at 3170 West State Road, Lansing, Michigan, with State Registration Number (SRN) N8035 (Facility). EGLE alleges that CRAA is in violation of Part 55, Air Pollution Control, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), MCL 324.5501 et seq.; the administrative rules promulgated thereunder, specifically Michigan Air Pollution Control Rules, Mich Admin Code, R 336.1974 (Rule 974), Mich Admin Code, R 336.1301 (Rule 301); and Permit to Install (PTI) No. 118-08. Specifically, EGLE alleges that CRAA exceeded the nitrogen oxides (NO<sub>x</sub>), particulate matter (PM), hydrogen chloride (HCl) emission limits from the gas fired waste incinerator, exceeded the waste incinerator's maximum charge rate, failed to meet minimum waste incinerator temperature, and failed to keep adequate temperature records. Additionally, EGLE alleges that CRAA exceeded the opacity limit and failed to maintain and operate the waste incinerator in a satisfactory manner to control emissions as cited herein and in Violation Notices dated October 21, 2021, and December 21, 2021. CRAA and EGLE stipulate to the termination of this proceeding by entry of this Stipulation for Entry of a Final Order by Consent (Consent Order).

CRAA and EGLE stipulate as follows:

1. The Natural Resources and Environmental Protection Act (NREPA) 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 the NREPA (Part 55), MCL 324.5501 *et seq.*, provides for air pollution control regulations in this State.

3. Executive Order 2019-06 renamed the Michigan Department of Environmental Quality as EGLE, and EGLE has all statutory authority, powers, duties, functions, and responsibilities to administer and enforce all provisions of Part 55.

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

5. The termination of this matter by a Consent Order pursuant to Section 5528 of Part 55, MCL 324.5528, is proper and acceptable.

6. CRAA and EGLE agree that the signing of this Consent Order is for settlement purposes only and does not constitute an admission by CRAA 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 Director.

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

#### COMPLIANCE PROGRAM AND IMPLEMENTATION SCHEDULE

9.A No later than August 29, 2022, CRAA shall submit an administratively complete permit application to modify the material usage limits or other operating limits of the natural gas fired waste incinerator currently permitted in PTI No. 118-08 (Waste Incinerator). If after the permit application is submitted the AQD requests additional information, CRAA shall make all reasonable effort to submit the additional information by the requested due date. The Waste Incinerator shall not be operated until after issuance of a modified PTI.

9.B After the modified PTI pursuant to paragraph 9.A is issued, CRAA shall comply with all material limits, process/operational restrictions, design/equipment parameters, and monitoring/recordkeeping special conditions for the Waste Incinerator.

9.C On and after the effective date of this Consent Order, CRAA shall comply with Rule 301 in operating the Waste Incinerator.

9.D If after the modified PTI pursuant to paragraph 9.A is issued and the Waste Incinerator is subject to Rule 974, CRAA shall comply with paragraphs 10.A, 10.B, 10.C, 10.D, 10.E, and 10.F of this Consent Order. If the Waste Incinerator is not subject to Rule 974 under the terms of the modified PTI, then paragraphs 10.A, 10.B, 10.C, 10.D, 10.E, and 10.F of this Consent Order shall not be enforceable.

10.A On and after the effective date of this Consent Order, CRAA shall comply with applicable Rule 974(7)(e) emission limits for the Waste Incinerator.

10.B No more than 30 days after the issuance of the modified PTI pursuant to paragraph 9.A, CRAA shall notify the AQD Lansing Office District Supervisor in writing that a request for approval for the alternative control system for the Waste Incinerator has been submitted the U.S. Environmental Protection Agency. The request shall include the specific operating limits established during the initial performance test, which operating limits will be monitored, and a description of the instruments used to monitor and record the operating limits per Rule 974(6)(c) and Rule 974(7)(e). A copy of the request shall be included with the notification.

10.C No more than 60 days after the issuance of the modified PTI pursuant to paragraph 9.A, CRAA shall submit to the AQD Lansing Office District Supervisor a waste management plan, as required by Rule 974(9)(b) and Rule 974(7)(c).

10.D No more than 120 days after the issuance of the modified PTI pursuant to paragraph 9.A, CRAA shall submit to the AQD Lansing Office District Supervisor the initial compliance report, as required by Rule 974(6)(c) and Rule 974(7)(g).

10.E No more than 180 days after the issuance of the modified PTI pursuant to paragraph 9.A, CRAA shall submit to the AQD Lansing Office District Supervisor annual compliance reports, as required by Rule 974(6)(d) and Rule 974(6)(e).

10.F No more than 90 days after the issuance of the modified PTI pursuant to paragraph 9.A, CRAA shall submit to the AQD Lansing Office District Supervisor documentation confirming appropriate operator training and qualifications, as required by Rule 974(7)(d).

GENERAL PROVISIONS

11. At any time after the execution of this Consent Order, CRAA may elect to cease operation of the Waste Incinerator. If CRAA elects to cease operations of the Waste Incinerator and provides written notice of the cessation of operation including a request to void the PTI to the AQD Lansing Office District Supervisor then, CRAA shall not be subject to the requirements of Paragraphs 9.A, 9.B, 9.C, 9.D, 10.A, 10.B, 10.C, 10.D, 10.E, or 10.F of this Consent Order or any stipulated penalties for failure to comply with the requirements of those paragraphs after the notice of the cessation of operation and request to void the PTI is received by the AQD Lansing Office District Supervisor.

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

13. 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.

14. CRAA 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 Environment, Great Lakes, and Energy, Accounting Services Division, Cashier's Office, P.O. Box 30657, Lansing, Michigan 48909-8157, a settlement amount of \$45,000.00 which includes the AQD costs for investigation and enforcement. This total settlement amount shall be paid within thirty (30) days after 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 AQD40287" 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 CRAA by law.

15. On and after the effective date of this Consent Order, if CRAA fails to comply with paragraph 9.A of this Consent Order, CRAA is subject to a stipulated fine of up to \$2,000.00 per violation per day. On and after the effective date of this Consent Order, if CRAA fails to comply with paragraph 9.B or 9.C of this Consent Order, CRAA is subject to a stipulated fine of up to \$3,000.00

per violation. On and after the effective date of this Consent Order, if CRAA fails to comply with paragraph 10.A, 10.B, or 10.F of this Consent Order, CRAA is subject to a stipulated fine of up to \$3,000.00 per violation. On and after the effective date of this Consent Order, if CRAA fails to comply with paragraph 10.C, 10.D, or 10.E of this Consent Order, CRAA is subject to a stipulated fine of up to \$2,000.00 per violation per day. The amount of the stipulated fines imposed pursuant to this paragraph shall be within the discretion of EGLE. Stipulated fines submitted under this Consent Order shall be made by check, payable to the State of Michigan within thirty (30) days after written demand and shall be mailed to the Michigan Department of Environment, Great Lakes, and Energy, 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 AQD40287-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 CRAA's obligation to comply with the terms and conditions of this Consent Order.

16. 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 EGLE 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.

17. To ensure timely payment of the settlement amount assessed in paragraph 14 and any stipulated fines assessed pursuant to paragraph 15 of this Consent Order, CRAA 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 payment shall be determined at a rate of interest that is equal to one percent (1%) plus the average interest rate paid at auctions of 5-year United States treasury notes during the six months immediately preceding July 1 and January 1, as certified by the state treasurer, compounded annually, and 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 CRAA shall be made to the State of Michigan in accordance with paragraph 15 of this Consent Order. Interest payments shall be applied first towards the most overdue amount or outstanding interest penalty owed by CRAA before any remaining balance is applied to subsequent payment amount or interest penalty.

18. CRAA agrees not to contest the legal basis for the settlement amount assessed pursuant to paragraph 14. CRAA also agrees not to contest the legal basis for any stipulated fines

assessed pursuant to paragraph 15 of this Consent Order but reserves the right to dispute in a court of competent jurisdiction the factual basis upon which a demand by EGLE of stipulated fines is made. In addition, CRAA agrees that said fines have not been assessed by EGLE pursuant to Section 5529 of Part 55, MCL 324.5529, and therefore are not reviewable under Section 5529 of Part 55.

19. This compliance program is not a variance subject to the 12-month limitation specified in Section 5538 of Part 55, MCL 324.5538.

20. This Consent Order shall remain in full force and effect for a period of at least three (3) years. Thereafter, this Consent Order shall terminate only upon written notice of termination issued by the AQD Director. Prior to issuance of a written notice of termination, CRAA shall submit a request to the AQD Director at the Michigan Department of Environment, Great Lakes, and Energy, Air Quality Division, P.O. Box 30260, Lansing, Michigan 48909-7760, consisting of a written certification that CRAA 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 Lansing 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 Director.

21. In the event CRAA sells or transfers the Facility, it 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, CRAA shall also notify the AQD Lansing 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, CRAA 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 Lansing District Supervisor within thirty (30) days after assuming the obligations of this Consent Order.

22. Prior to the effective date of this Consent Order and pursuant to the requirements of Sections 5511 and 5528(3) of Part 55, MCL 324.5511 and MCL 324.5528(3), the public was notified of a 30-day public comment period and was provided the opportunity for a public hearing.

23. Section 5530 of Part 55, MCL 324.5530, may serve as a source of authority but not a limitation under which this Consent Order may be enforced. Further, Part 17 of the NREPA, MCL 324.1701 *et seq.*, and all other applicable laws and any other legal basis or applicable statute may be used to enforce this Consent Order.

24. CRAA hereby stipulates that entry of this Consent Order is a result of an action by EGLE to resolve alleged violations of its facility located at 3170 West State Road, Lansing, Michigan, with State Registration Number (SRN) N8035. CRAA further stipulates that it will take all lawful actions necessary to fully comply with this Consent Order, even if CRAA files for bankruptcy in the future. CRAA will not seek discharge of the settlement amount and any stipulated fines imposed hereunder in any future bankruptcy proceedings, and CRAA will take the necessary steps to ensure that the settlement amount and any future stipulated fines are not discharged. CRAA, 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 CRAA to the extent allowed by applicable bankruptcy law.

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

**CAPITAL REGION AIRPORT AUTHORITY**

Nicole Nort-Williams  
Print Name and Title

Nicole Nort-Williams Dated: 7/27/22  
Signature

Subscribed and sworn to by the above signatory before me on this 27<sup>th</sup> day of

JULY, 2022.

Beverly S. Wooley  
Notary Public Signature

**Beverly S. Wooley**  
Notary Public, State of Michigan  
County of Ingham  
My Commission Expires Dec. 12, 2025  
Acting in the County of \_\_\_\_\_

BEVERLY S. WOOLEY  
Notary Public Printed Name  
12/12/2025  
My Commission Expires

Approved as to Content:

Mary Ann Dolehanty  
Mary Ann Dolehanty, Director  
AIR QUALITY DIVISION  
DEPARTMENT OF ENVIRONMENT,  
GREAT LAKES, AND ENERGY

Dated: 8/10/2022

Approved as to Form:

*Assistant Attorney General  
Daniel P. Boock, P7246,  
on behalf of AAG  
Margaret Bettenhausen*

Daniel P. Boock  
Margaret Bettenhausen, Asst. Attorney General  
AIR AND WATER SECTION  
ENVIRONMENT, NATURAL RESOURCES,  
AND AGRICULTURE DIVISION  
DEPARTMENT OF ATTORNEY GENERAL

Dated: 8/10/22



FINAL ORDER

The Director of the Air Quality Division having had opportunity to review this Consent Order and having been delegated authority to enter into Consent Orders by the Director of the Michigan Department of Environment, Great Lakes, and Energy pursuant to the provisions of Part 55 of the NREPA and otherwise being fully advised on the premises,

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

MICHIGAN DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY

  
Mary Ann Dolehanty, Director  
Air Quality Division

Effective Date: 8/10/2022