

STATE OF MICHIGAN  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
OFFICE OF THE DIRECTOR

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In the matter of administrative proceedings )  
against **AMERICAN RACK COMPANY-** )  
**GRAND RAPIDS**, a corporation organized )  
under the laws of the State of Michigan and )  
doing business at 4910 Kraft Avenue SE, )  
Township of Cascade, City of Grand Rapids, )  
County of Kent, State of Michigan )

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AQD No. 20-2017

SRN: P0384

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 American Rack Company – Grand Rapids (Company), a Michigan corporation with a facility located at 4910 Kraft Avenue SE, City of Grand Rapids, County of Kent, State of Michigan, with State Registration Number (SRN) P0384. The MDEQ alleges that the Company is in violation of the Mich Admin Code, R 336.1225 (Rule 225) as specified in Permit to Install (PTI) 151-12 for EU-BURNOFF, Special Condition I.1, Mich Admin Code, R 336.1205 (Rule 205) as specified in PTI 151-12 for FGFACILITY, Special Condition I.1, and Mich Admin Code, R 336.1210 (Rule 210). Specifically, the MDEQ alleges that the Company has operated EU-BURNOFF in excess of the allowable hydrogen chloride emission limit as specified in PTI 151-12, Special Condition I.1 based on the test results which MDEQ alleges showed an exceedance of the 16.33 pound per hour limit. This exceedance violates Rule 225, as cited herein and in the Violation Notice dated March 3, 2017, that the MDEQ-AQD sent to the company. The MDEQ also alleges that the Company has operated FGFACILITY in excess of the allowable hydrogen chloride emission limit as specified in PTI 151-12, Special Condition I.1 based on the test results and operating data. MDEQ further alleges that hydrogen chloride emissions have exceeded the 9.0 ton per year limit for FGFACILITY, which violates Rule 205, as cited herein and in the Violation Notice dated March 3, 2017. Additionally, the MDEQ alleges that the Company is operating the facility without a renewable operating permit (ROP) as required by Title V of the Clean Air Act, 42 USC 7661 *et seq.*, because the facility's emissions for an individual hazardous air pollutant (HAP) exceeded the Title V ROP thresholds, as cited herein and in the Violation Notice dated March 3, 2017. The Company and MDEQ stipulate to the termination of this proceeding by entry of a 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 of the MDEQ has delegated authority to the Director of the Air Quality Division (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 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 Director.
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. On or before December 31, 2017, the Company shall cease operations of EU-BURNOFF as identified in Permit to Install (PTI) No. 151-12 or any other type of burn off oven at its facility located at, 4910 Kraft Avenue SE, City of Grand Rapids, County of Kent, State of Michigan.

9.B. Starting on June 15, 2017 and up to the date EU-BURNOFF has ceased operation, which shall be no later than December 31, 2017, the Company agrees to limit the pounds of plastisol burned per batch to less than or equal to 140 pounds. Pounds of plastisol removed in the burn off oven per each batch shall be determined by weighing the racks processed before and after each batch. After burn off is completed for each batch, the racks shall be cleaned of excess ash and other residue prior to weighing so that only a

minimal amount of material is adhering to the racks. The Company shall keep records of each batch weight and the number of batches processed in EU-BURNOFF starting no later than June 15, 2017 and shall continue to keep these records until the company has ceased operation of EU-BURNOFF, which shall be no later than December 31, 2017.

9.C. No later than December 31, 2017, the Company shall submit a PTI application to the AQD Permit Section Supervisor for PTI 151-12 to be voided and for the requirements in PTI 151-12 for FG-FACILITY to be added to PTI 151-12A.

9.D. Starting no later than July 19, 2017, the Company shall not operate EU-BURNOFF on the following dates in the calendar year of 2017: July 19, 20, and 26; August 2, 9, 15, 16, 17, 23 and 30; September 6, 13, 19, 20 and 27; October 4, 11, 17, 18, 20 and 25; November 1, 8, 14, 15, 16, 22 and 27; and December 6, 12, 13, 20 and 27. Any changes to this schedule shall be submitted to the AQD District Supervisor in writing (electronic mail is acceptable) prior to the date that EU-BURNOFF was scheduled to not be operated.

#### GENERAL PROVISIONS

10. On and after the effective date of this Consent Order, except as otherwise provided by the administrative rules of Part 55, the Company shall not install, construct, reconstruct, relocate, alter, or modify any process or process equipment including control equipment pertaining thereto, which may emit an air contaminant, unless a permit to install which authorizes such action is issued by the MDEQ pursuant to Rule 201, the Company is issued a waiver pursuant to Rule 202, or the change is exempt from the requirements of Rule 201.

11. 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.

12. 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.

13. 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 \$60,000.00, which includes AQD costs for investigation and enforcement. This total settlement amount shall be paid as follows: an initial payment of \$20,000.00 within thirty (30) days of the effective date of this Consent Order; a secondary payment of \$20,000.00 within one hundred twenty (120) days of the effective date of this Consent Order; and a final payment of \$20,000.00 within two hundred ten (210) 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 AQD40179" 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.

14. On and after the effective date of this Consent Order, if the Company fails to comply with paragraph 9.A. or 9.D. of this Consent Order, the Company is subject to a stipulated fine of up to \$5,000.00 per violation per day. On and after the effective date of this Consent Order, if the Company fails to comply with paragraph 9.B. of this Consent Order, the Company is subject to stipulated fines of up to \$2,500.00 per violation. On and after the effective date of this Consent Order, if the Company fails to comply with paragraph 9.C. of this Consent Order, the Company is subject to stipulated fines of up to \$500.00 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 AQD40179-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.

15. 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.

16. To ensure timely payment of the settlement amount assessed in paragraph 13 and any stipulated fines assessed pursuant to paragraph 14 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 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 the Facility 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 Facility before any remaining balance is applied to subsequent payment amount or interest penalty.

17. The Company agrees not to contest the legal basis for the settlement amount assessed pursuant to paragraph 13. The Company also agrees not to contest the legal basis for any stipulated fines assessed pursuant to paragraph 14 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.

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

19. This Consent Order shall remain in full force and effect for a period of at least two (2) years. Thereafter, the Consent Order shall terminate only upon written notice of termination issued by the AQD Director. Prior to issuance of a written notice of termination, the Company shall submit a request, to the AQD Director 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 Grand Rapids 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.

20. In the event the Company sells or transfers the facility, with SRN P0384, 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, the Company shall also notify the AQD Grand Rapids 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 Grand Rapids District Supervisor within thirty (30) days of assuming the obligations of this Consent Order.

21. 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.

22. 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.

23. The Company hereby stipulates that entry of this Consent Order is a result of an action by MDEQ to resolve alleged violations of its facility located at 4910 Kraft Avenue SE, City of Grand Rapids, County of Kent, State of 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.

**AMERICAN RACK COMPANY – GRAND RAPIDS**

Byron J Gordon Plant Manager  
Print Name and Title

Byron J Gordon Date: 12-26-17  
Signature

The above signatory subscribed and sworn to before me this 26 day of December, 2017.

Joseph S. Giarmo  
Notary Public Signature



Approved as to Content:

Lynn Fiedler  
Lynn Fiedler, Director  
AIR QUALITY DIVISION  
DEPARTMENT OF  
ENVIRONMENTAL QUALITY

Approved as to Form:

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

Dated: 1/23/18

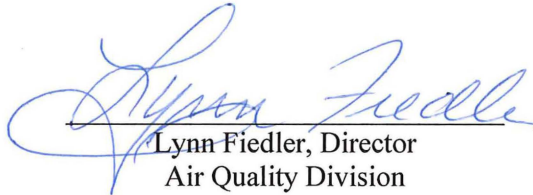
Dated: Jan. 19, 2018

FINAL ORDER

The Director 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, Director  
Air Quality Division

Effective Date: 1/23/18